

To: Chair and Members of the Planning Committee

Date: 6 December 2023

Direct Dial: 01824 712589

e-mail: democratic@denbighshire.gov.uk

Dear Councillor

You are invited to attend a meeting of the **PLANNING COMMITTEE** to be held at **9.30 AM** on **WEDNESDAY, 13 DECEMBER 2023** in **COUNCIL CHAMBER, COUNTY HALL, RUTHIN AND BY VIDEO CONFERENCE.**

Yours sincerely

G Williams
Monitoring Officer

AGENDA

1 APOLOGIES (Pages 5 - 6)

2 DECLARATIONS OF INTEREST (Pages 7 - 8)

Members to declare any personal or prejudicial interests in any business identified to be considered at this meeting.

3 URGENT MATTERS AS AGREED BY THE CHAIR

Notice of items which, in the opinion of the Chair, should be considered at the meeting as a matter of urgency pursuant to Section 100B(4) of the Local Government Act, 1972.

4 MINUTES (Pages 9 - 20)

To confirm the accuracy of the minutes of the Planning Committee meeting held on the 08 November 2023 (copy attached).

APPLICATIONS FOR PERMISSION FOR DEVELOPMENT (ITEMS 5 - 7) -

5 APPLICATION NO. 01/2022/0523/ MA - GRAIG QUARRY, GRAIG ROAD, DENBIGH, LL16 5US (Pages 21 - 110)

To consider a consolidating application for the extension of winning and working of limestone, importation of inert waste and restoration to amenity land at Graig Quarry, Graig Road, Denbigh (copy attached).

6 APPLICATION NO. 43/2023/0363/ PF - 46 HIGH STREET, PRESTATYN, LL19 9BB (Pages 111 - 124)

To consider a retrospective application for the installation of perforated roller shutter to front elevation at 46 High Street, Prestatyn (copy attached).

7 APPLICATION NO. 45/2023/0435/ PF - 157 VALE ROAD, RHYL LL18 2PH (Pages 125 - 144)

To consider an application for the change of use of part of existing nursery to form one dwelling and associated works at 157 Vale Road, Rhyl (copy attached).

ADDITIONAL INFORMATION

8 ADDRESSING THE NATURE EMERGENCY THROUGH THE PLANNING SYSTEM: UPDATED NATIONAL PLANNING POLICY FOR CHAPTER 6 OF PLANNING POLICY WALES (Pages 145 - 218)

To consider a report on the national policy changes that were made to Planning Policy Wales Edition 11 Chapter 6 (copy attached).

9 PLANNING SCHEME OF DELEGATION REVIEW (Pages 219 - 242)

To consider a report by the Head of Planning, Public Protection and Countryside Services with suggested amendments to the Planning Scheme of Delegation (copy attached).

MEMBERSHIP

Councillors

Councillor Mark Young (Chair)

Ellie Chard
Karen Edwards
Gwyneth Ellis

Julie Matthews
Terry Mendies
Raj Metri

James Elson
Chris Evans
Justine Evans
Jon Harland
Huw Hilditch-Roberts
Alan James
Delyth Jones

Win Mullen-James
Merfyn Parry
Arwel Roberts
Gareth Sandilands
Andrea Tomlin
Cheryl Williams
Elfed Williams

COPIES TO:

All Councillors for information
Press and Libraries
Town and Community Councils

This page is intentionally left blank

WELCOME TO DENBIGHSHIRE COUNTY COUNCIL'S PLANNING COMMITTEE

HOW THE MEETING WILL BE CONDUCTED

Unless the Chair of the Committee advises to the contrary, the order in which the main items will be taken will follow the agenda set out at the front of this report.

General introduction

The Chair will open the meeting at 9.30am and welcome everyone to the Planning Committee.

The Chair will ask if there are any apologies for absence and declarations of interest.

The Chair will invite Officers to make a brief introduction to matters relevant to the meeting.

Officers will outline as appropriate items where we have received requests for deferral, withdrawals, special reports, and any Part 2 items where the press and public may be excluded. Reference will be made to additional information prior to the start of the meeting, including the late representations/amendments summary sheets ('Late Sheets') and any supplementary or revised plans relating to items for consideration.

The Late Sheets' contain important information, including a summary of material received in relation to items on the agenda between the completion of the main reports and the day before the meeting. The sheets also set out the proposed running order on planning applications.

In relation to the running order of items, any Members seeking to bring forward consideration of an item will be expected to make such a request immediately following the Officer's introduction. Any such request must be made as a formal proposal and will be subject to a vote.

The Planning Committee currently consists of 21 elected Members. In accordance with protocol, 11 Members must be present at the start of a debate on an item to constitute a quorum and to allow a vote to be taken.

County Council Members who are not elected onto the Planning Committee may attend the meeting and speak on an item, but are not able to make a proposal to grant or refuse, or to vote.

CONSIDERING PLANNING APPLICATIONS

The sequence to be followed

The Chair will announce the item which is to be dealt with next. In relation to planning applications, reference will be made to the application number, the location and basis of the proposal, the relevant local Members for the area, and the Officer recommendation.

If any Member is minded to propose deferral of an item, including to allow for the site to be visited by a Site Inspection Panel, the request should be made, with the planning reason for deferral, before any public speaking or debate on that item.

Where relevant, the Chair will offer the opportunity for Members to read any late information on an item on the 'Late Sheets' before proceeding.

Prior to any debate, the Chair may invite Officers to provide a brief introduction to an item where this is considered to be worthwhile in view of the nature of the application.

The Chair will announce that the item is open for debate and offer Members opportunity to speak and to make propositions on the item.

If any application has been subject to a Site Inspection Panel prior to the Committee, the Chair will normally invite those Members who attended, including the Local Member, to speak first.

On all other applications, the Chair will permit the Local Member(s) to speak first, should he/she/they wish to do so.

Members are normally limited to a maximum of five minutes speaking time, and the Chair will conduct the debate in accordance with Standing Orders.

Once a Member has spoken, **he/she should not speak again** unless seeking clarification of points arising in debate, and then only once all other Members have had the opportunity to speak, and with the agreement of the Chair.

At the conclusion of Members debate, the Chair will ask Officers to respond as appropriate to questions and points raised, including advice on any resolution in conflict with the recommendation.

Prior to proceeding to the vote, the Chair will invite or seek clarification of propositions and seconders for propositions for or against the Officer recommendation, or any other resolutions including amendments to propositions. Where a proposition is made contrary to the Officer recommendation, the Chair will seek clarification of the planning reason(s) for that proposition, in order that this may be recorded in the Minutes of the meeting. The Chair may request comment from the Legal and Planning Officers on the validity of the stated reason(s).

The Chair will announce when the debate is closed, and that voting is to follow.

The voting procedure

Before requesting Members to vote, the Chair will announce what motions have been made, and how the vote is to proceed. If necessary, further clarification may be sought of amendments, new or additional conditions and reasons for refusal, so there is no ambiguity over what the Committee is voting for or against.

Members attending via Zoom

The voting will proceed with the Chair going around all the Planning Committee members eligible to vote to ask for their verbal "For", "Against" or "Abstain" vote. The votes will be marked down.

Members attending in person in the Chamber

The Members will use the electronic voting system and the result will be read out by the Chair.

Final Result

The Chair will add up the votes and will announce whether the application has been approved or refused.

LOCAL GOVERNMENT ACT 2000

Code of Conduct for Members

DISCLOSURE AND REGISTRATION OF INTERESTS

| | |
|---|------------------------------------|
| I, (name) | |
| a *member/co-opted member of (*please delete as appropriate) | Denbighshire County Council |
| CONFIRM that I have declared a *personal / personal and prejudicial interest not previously declared in accordance with the provisions of Part III of the Council's Code of Conduct for Members, in respect of the following:- (*please delete as appropriate) | |
| Date of Disclosure: | |
| Committee (please specify): | |
| Agenda Item No. | |
| Subject Matter: | |
| Nature of Interest: (See the note below)* | |
| Signed | |
| Date | |

*Note: Please provide sufficient detail e.g. 'I am the owner of land adjacent to the application for planning permission made by Mr Jones', or 'My husband / wife is an employee of the company which has made an application for financial assistance'.

This page is intentionally left blank

PLANNING COMMITTEE

Minutes of a meeting of the Planning Committee held in Council Chamber, County Hall, Ruthin and by video conference on Wednesday, 8 November 2023 at 9.30 am.

PRESENT

Councillors Ellie Chard, Karen Edwards, Gwyneth Ellis, James Elson, Chris Evans, Jon Harland, Huw Hilditch-Roberts, Alan James, Delyth Jones, Julie Matthews, Terry Mendies, Raj Metri, Win Mullen-James, Arwel Roberts, Gareth Sandilands, Peter Scott, Andrea Tomlin, Cheryl Williams and Mark Young (Chair)

ALSO PRESENT

Paul Mead – Development Control Manager; Paul Griffin – Principal Planning Officer, Luci Mayall – Planning Officer Clare Lord – Legal Officer; Mike Parker – Senior Engineer, Laura Bellis - Solicitor, Committee Administrators (RhTJ & KJ [Webcaster])

1 APOLOGIES

Apologies for absence were received from Councillors Merfyn Parry and Elfed Williams.

2 DECLARATIONS OF INTEREST

Councillor Delyth Jones declared a personal interest in agenda item 5, interest as she's friends with the extended family of the applicant. She was also friends with the owners of Pen Ddwy Accar which was the land adjacent to the application.

3 URGENT MATTERS AS AGREED BY THE CHAIR

None.

4 MINUTES

The minutes of the Planning Committee held on 6 September 2023 were submitted.

Matters of accuracy –

- Councillor Peter Scott highlighted that he sent his apologies, however they had not been noted.
- Councillor Win Mullen-James raised that her comments regarding the family potentially being made homeless regarding to Application No. 15/2022/0154 were important to be noted.

RESOLVED that, subject to the above, the minutes of the meeting held on 6 September 2023 be approved as a correct record.

5 APPLICATION NO. 01/2023/0231/PF - LAND ADJACENT TO PEN DDWY ACCAR, LAWNT, DENBIGH

An application was submitted for change of use of land by the siting of 2 no. timber cabins for holiday let purposes, installation of septic tanks, landscaping, vehicular access, parking, and associated works at land adjacent to Pen Ddwy Accar, Lawnt, Denbigh.

Public Speaker –

Martin Shutt (Agent) (For) – thanked the members for allowing him to address Committee; farms across Denbighshire were in decline and were struggling to make a profit; the increase in costs and decrease in subsidies were some of the reasons for the decline. The challenges were exacerbated by ill health in the family; the application was for a small diversification of a piece of land; expanding the farm operations from beyond the traditional use would hopefully mean the applicant could retain the land and make the farm more resilient moving forward.

The proposal was to repurpose unused woodland for two small cabins; the area had not been historically farmed due to the well-established woodland, and the site was also a reasonable distance from the usual farm operations. The proposals have paid respect to the nearest properties by being away from their principal elevations, providing more than extensive distance and biodiversity work with the landscaping, and reducing the original three proposed cabins to two. The visitors to the site would also bring economic benefits to the local area. The proposal, whilst small, would hopefully be an attractive offer to people; the cabins were also suitable for two people, which would attract people who would want a quiet getaway. Mr Shutt thanked officers from all organisations for their support, and the applicant was happy with all the conditions within the application.

General Debate –

Councillor Delyth Jones (local member) thanked the chair for being allowed to speak; she fully supported farms diversifying to enable them to remain viable businesses. However, Councillor Jones was worried that there would be a loss of good agricultural land and whether the loss could negatively impact the farm; also, she raised concerns about the lighting and noise pollution with any hot tubs and whether it would impact the local area; and whether there would be an impact on the biodiversity of the area.

Responding officers clarified the cabins would be erected near a wooded area on the farm. With the landscaping associated with the cabins, there would be a benefit to the area's biodiversity. Members were informed that hot tubs were no longer within the application due to the potential of noise and water pollution; regarding lighting, there would be adequate screening at the site to alleviate these concerns. Lastly, returning to the concern with the loss of good agricultural land, there were conditions within the application. If the ~~change were~~ business proved unsuccessful, there would be a six-month timeframe to allow the land to be changed back to its previous use.

Some planning committee members raised concerns with the hot tubs, as they were concerned that although they were not included within the application, they

could be added later, with no input from the Planning Committee. There were also concerns that if the application was granted, a precedent could be set to use good agricultural land for other uses.

Officers clarified that the concerns of the hot tubs could be addressed with a condition allowing the committee or officers to decide whether they could be implemented at the site. The concerns with using agricultural land were also dealt with in condition 12 of the application, which would require the applicants to remove the cabins and restore the land to its previous use.

Councillor Huw Hilditch-Roberts raised concern about the hot tub situation and suggested no conditions imposed on the site, as the lack of them could impact the viability of the business; Councillor Chris Evans echoed these concerns.

Proposal – Councillor Delyth Jones proposed the application be granted with the additional condition that no hot tubs were to be placed at the site without planning permission, seconded by Councillor Arwel Roberts.

Proposal – Councillor Huw Hilditch-Roberts also proposed the application be granted with no additional conditions, seconded by Councillor Terry Mendies.

Officers clarified to members they would be voting for granting the application with the additional condition restricting hot tubs as the first instance; if the proposal wasn't carried, then there would be a vote with no additional conditions.

Vote -

For – 12

Against - 7

Abstain - 0

RESOLVED that the planning application be **GRANTED** in accordance with officer recommendation, to include the additional condition.

6 APPLICATION NO. 18/2023/0120/PC - WERN, LLANDYRNOG, DENBIGH

A retrospective application was submitted for a change of use of stables to a Dog Day Care Facility, continuation of use of menage as a mixed-use equestrian and dog exercise area and continuation of use of land as agricultural, equestrian and dog exercise area at Wern, Llandyrnog, Denbigh.

Public Speakers –

Miss Catrin Davies (For) – thanked the committee for being allowed to speak; she was the owner of the kennels; the business began three and a half years ago, and it has grown with multiple members of staff, who were all local. There were also volunteers for mental health facilities nearby to assist with dog walking to help with wellbeing and increase their independence. There were visits to care homes with smaller dogs, and there was free daycare for service dogs at the site.

With the growth of the business, the demand had also increased; the service provided allowed people to go to work whilst knowing their dogs were cared for. The applicant was aware of noise complaints and, whilst working with the Council, was looking at methods of mitigating the noise pollution; one of these methods was to allow dogs to have testing periods to see if they were suitable for the kennels, there was also soundproofing being placed at the barn, which the Council also advised at significant cost to the business. These would hopefully highlight how the business aimed to reduce noise levels; there was always a member of staff present at the kennels to monitor the noise levels. Miss Davies also highlighted that a noise level assessment had been carried out in line with the planning process.

Mr Thomas Brock (Against) – indicated he spoke on behalf of a group of residents who opposed the application on two grounds—the unsuitability of the site and the noise issues over fifteen months. There was a lack of an objection on the planning portal from a specialist with knowledge of the site, which did not meet national standards, regarding fencing concerns and the public footpaths on the site. Nothing was within the application regarding contractual indemnities and statutory public liability; these were highly sensitive issues. Holiday lets surrounded the site and was near the Offa's dyke path, whilst also the area was being looked at with the possibility of a national park; Mr Brock highlighted that there could be more lost than gained by the local community.

Planning policy in Wales indicated that there needed to be the protection of local amenities; however, residents had to deal with noise issues for fifteen months, which had been vindicated by public protection. There were noise mitigation conditions placed on the site; there needed to be evidence of these being carried out before any increase of dogs allowed at the site. The conditions were well thought out, the noise mitigation would need to be of British standard, and the work entailed with the matter should be included in the conditions as a legal requirement. There have also been many incidents of number violations at the site; business trading was carried out before a license was issued on 31/12/22. On these two technical issues alone, the standard precedent would be to dismiss the application and refer the matter to the regulatory bodies. Mr Brock outlined that if these issues continued, the group would exercise their right to proceed with the relevant authorities.

General Debate –

The chair invited those who attended the site visit to have their say on the application following the visit.

Councillor Chris Evans indicated that he believed the site was a good one; the centre cared for the dogs at the site, and the owner was passionate about the care provided. He understood the concerns that the residents had raised; however, he felt these were alleviated through conditions which were set out.

Councillor Peter Scott felt that the noise issues seemed fine for the visit. The site was adequate distance from any residential areas, the site was well maintained and looked after.

Councillor Alan James echoed what Councillor Scott had stated and felt content with the officer's recommendations and the conditions.

Councillor Peter Scott, on behalf of Councillor Merfyn Parry (local member), read a statement in his absence – he apologised for not being present. He had worked with both the applicant and the objectors at the site; he understood the concerns which had been raised; however, he felt the conditions which were proposed would alleviate these concerns; in closing, he stated if he were in attendance, he would have fully supported the application.

Councillor Delyth Jones supported the application, and the steps implemented to address concerns have been positive; she stated that including a condition of signage for the nearby public footpaths would be good as they would raise awareness of the dog care facility. The officer responded that including the condition was a viable option if the committee would want to include it with any proposals.

Committee members queried with officers how the soundproofing could be checked; officers clarified there was a condition of a noise management plan: the applicant would have two months to install the noise insulation fully.

Councillor Huw Hilditch-Roberts thanked the chair for the opportunity to speak; he highlighted the comments which were raised earlier at the meeting and how they could be deemed as offensive to the committee; he raised from personal experience with dog kennels near his residency that noise pollution was a rare issue, he closed by stating that the concerns with the site and any noise pollution would be dealt with through the proposed conditions.

Proposal – Councillor Huw Hilditch-Roberts proposed the application be granted with the additional condition that signage was placed around the site's public footpaths, seconded by Councillor Gareth Sandilands.

Vote –

For – 19

Against – 0

Abstain – 0

RESOLVED that the planning application be **GRANTED** in accordance with officer recommendation.

7 APPLICATION NO. 23/2023/0160/PF - LAND OPPOSITE BRYN EGLUR, LLANRHAEADR, DENBIGH

An application was submitted for the Change of use of the yard to form a builder's storage yard (sui generis) and use of the existing eco cabin building as an associated office (B1) at Land Opposite Bryn Eglur, Llanrhaeadr, Denbigh.

Public Speaker –

Endaf Roberts (Agent) (For) – thanked for allowing him to speak; as you can see from the officer report, it was to grant the application. Mr Roberts did not wish to speak more than necessary as there was ample detail within the officer report. The applicant has worked closely with the officers' development scheme to use the empty rural buildings sustainably. There were two applications, and local businesses would use both buildings as one was already in use. The application to convert these buildings were compliant with all relevant policies and guidance.

General Debate –

Councillor Peter Scott read a statement on behalf of Councillor Elfed Williams (local member), the application there were no objections raised from officers with the application, and he agreed as a member.

Proposal – Councillor Huw Hilditch-Roberts proposed the application be granted in accordance with officer recommendations, seconded by Councillor Peter Scott.

Vote –

For – 19

Against – 0

Abstain – 0

RESOLVED that the planning application be **GRANTED** in accordance with officer recommendation.

8 APPLICATION NO. 23/2023/0161/PC - HEN SHED, LLANRHAEADR, DENBIGH

A retrospective application was submitted for the change of use of part of the building to form builder's storage depot (sui generis) with associated office space (B1), Hen Shed, Llanrhaeadr, Denbigh.

Public Speaker –

Endaf Roberts (Agent) (For) – thanked for allowing him to speak; as you can see from the officer report, it was to grant the application. Mr Roberts did not wish to speak more than necessary as there was ample detail within the officer report. The applicant has worked closely with the officers' development scheme to use the empty rural buildings sustainably. There were two applications, and local businesses would use both buildings as one was already in use. The application to convert these buildings were compliant with all relevant policies and guidance.

General Debate –

Councillor Peter Scott read a statement on behalf of Councillor Elfed Williams (local member), the application there were no objections raised from officers with the application, and he agreed as a member.

Proposal – Councillor Alan James proposed the application be granted in accordance with officer recommendations, seconded by Councillor Huw Hilditch-Roberts.

Vote –

For – 19

Against – 0

Abstain – 0

RESOLVED that the planning application be **GRANTED** in accordance with officer recommendation.

9 APPLICATION NO. 40/2023/0473/PF - GLAN CLWYD HOSPITAL, RHUDDLAN ROAD, BODELWYDDAN

An application was submitted for the erection of a new hospital unit (Use Class C2), including associated landscaping, car parking and site vehicular access and the erection of a multi-storey car park and associated works at Glan Clwyd Hospital, Rhuddlan Road, Bodelwyddan.

Public Speaker –

Mr Peter Campbell (Agent) (For) – he spoke on health Betsi Cadwaladr University Health Board and they welcomed the positive recommendation by officers. There was a critical need for the facility at Glan Clwyd Hospital, which would provide better patient care. Members would recall Planning previously refused the matter due to concerns about residential amenities due to the proximity of the proposed development to these houses. Since the refusal, there has been close cooperation with the Council officers with a completely different scheme, which was in a different location; due to these changes, there have been no objections to the development. The exiting Ablett unit has passed its viable life span and could no longer provide the care required.

This project represented a flagship scheme for mental health care in North Wales, which planning approval would help realise an investment of up to £80 million pounds from the Welsh Government. The facility would be far better to allow staff aid in recovery for the patients. The proposed site was within the local plan to develop community facilities; therefore, it was strategically identified in planning policy to support development needs at Glan Clwyd Hospital; this would not create a concentration of development at the site, as it was a direct replacement of the existing unit. It was fundamental for the site to be located at Glan Clwyd to allow patients to be close to the other services at Glan Clwyd. There had been no objections from Planning officers regarding highways and the new parking at the site. There would be 25 electric parking spaces with the new parking, with future-proof infrastructure to allow this to increase in the future if required. The new building would adopt a sustainable process whilst building. The proposed application was vital for providing mental health care, and he wished for the committee to approve the application.

General Debate –

At this juncture, Councillor Raj Metri (local member) declared a personal and prejudicial interest, as he worked for Betsi Cadwaladr University Health Board.

Councillor Jon Harland raised concern with the application for multiple reasons; he felt that there was a concentration of provision at one site rather than building local care facilities or repurposing older sites. He also raised concerns about the lack of adequate public transport and unfit traffic management in the hospital. Councillor Harland also raised the inadequate green infrastructure statement.

Proposal – Councillor Jon Harland proposed the application be refused due to there being no green infrastructure statement, as well as an inadequate traffic management plan in place.

Members of the committee stated they understood the concerns raised by Councillor Harland; however, many felt that there was a drastic need for the proposed care provision at Glan Clwyd and the old facility was no longer fit for purpose.

Proposal – Councillor Gareth Sandilands proposed the application be granted in accordance with officer recommendations, seconded by Councillor Andrea Tomlin

Vote –

For – 18

Against – 1

Abstain – 0

RESOLVED that the planning application be **GRANTED** in accordance with officer recommendation.

10 APPLICATION NO. 43/2021/0990/PF - 93 MELIDEN ROAD, PRESTATYN

An application was submitted for the Erection of 2 no. detached dwellings with associated works and landscaping at 93 Meliden Road Prestatyn.

Public Speaker –

Sarinah Farooq (Agent) (For) – thanked the chair for the chance to speak; the proposal sought to provide two detached dwellings within a substantial plot of land within an established residential site. The pre-existing properties on the site were demolished following a fire and no longer being structurally safe. The original plan for the site was for three dwellings; however, following discussions with the case officers, the current scheme was for two dwellings, this change addressed all concerns raised.

The applicant has worked closely with the planning authority; without development, the site would continue to deteriorate and impact an otherwise attractive residential street in Prestatyn. The dwellings would vary in design from each, which would be in keeping with the unique designs of many other properties. Careful consideration had been afforded to the protection of existing trees; there would be no detrimental impact on the trees protected under any tree protection orders. There had been no concerns raised regarding the drainage or highways. The plans were designed to reduce any impact on residential amenities; there would be ample screening at the

site through a hedgerow, and there would also be no windows facing pre-existing flats at a lower elevation. There had been no evidence of a culvert and no findings by any organisations; however, any concerns would be addressed during a SuDS approval.

General Debate –

Councillor Jon Harland thanked the chair for the opportunity to speak; he wanted to highlight certain aspects of the site; he raised that there was a nearby culvert, which was blocked; he also suggested that due to the elevation of the site, the driveways would be permeable surface rather than a hard one to lessen any water runoff.

Officers clarified that drainage at the site was a private matter, and condition 11 would cover issues with culverts. Officers also reassured members that the applicant would need SAB approval for SuDS. Officers stated that the driveway surface could be included within condition 11.

The committee were happy to see a derelict site coming back into use.

Proposal – Councillor Gareth Sandilands proposed the application be granted in accordance with officer recommendations, seconded by Councillor Alan James

Vote –

For – 19

Against – 0

Abstain – 0

RESOLVED that the planning application be **GRANTED** in accordance with officer recommendation.

11 APPLICATION NO. 43/2023/0071/PF - LAND AT MIDNANT FARM, GRONANT ROAD, PRESTATYN

An application was submitted for the erection of 45 dwellings, construction of a new vehicular access, landscaping and associated works at Land at Midnant Farm Gronant Road Prestatyn.

Public Speaker –

Stuart Andrew (applicant) (for) - I'm the Design and Planning director at Castle Green Homes with the Applicant at submission for residential development at the allocated residential site at Midland Farm Gronant Road Prestatyn. The site was allocated for housing by the County from its LDP in 2013.

The allocation for the site was for 65 dwellings; However, this application was for only 45 homes, which we consider a more suitable number for this site in terms of the site and its density; 10% of the dwellings that would be built to be affordable by the Council's adopted policy.

The housing proposed includes a mix of two, three and four-bed properties, which the Council Strategic Housing and Policy Officer has accepted. The site is expected to have public open space of just over 1/3 of an acre, and the existing mature landscaping will be retained to separate the site from the surrounding housing to the West and around the site. The other boundaries would also be retained. In addition, financial contributions have been secured through a Section 106 agreement that has been agreed in principle with council officers, which includes around £68,000 for off-site affordable housing, around £45,000 for existing public open space areas and sports facilities, and £40,000 for local primary school education facilities. It was the second time this application has been presented, following a deferral in September due to a late consultation response from Welsh Water regarding concerns they had regarding the local final drainage capacity. However, this matter has now been resolved, and the development of this scheme will deliver a net benefit to the local foul drainage network, reducing the overall loading of the system. Welsh Water has removed the request for information planning conditions based on our application.

Other necessary statutory consultees and council officers have reviewed our proposals. There have been no technical objections to the approval of the scheme, and the council officers have concluded that the application meets all policy requirements and creates no adverse impact on the existing local visual or residential amenities. The report recommends that planning permission be granted, and we hope that you agree with this view. We appreciate your consideration.

General Debate –

Councillor Andrea Tomlin (local member) informed the committee the application had been ~~out~~ thoroughly assessed for roughly twelve months; there had been no local objection; however, some other concerns were raised, and these had all been addressed through the planning process. The main concerns were drainage, pavements, and roads; however, these issues could be addressed separately. Councillor Tomlin highlighted the wealth of local knowledge and urged the applicant to work as closely with the local community whilst developing as possible. Concerns were raised by the town council regarding the farmhouse, which was located at the site. However, following a review, the farmhouse has been found not to be of any structural or historical importance.

Councillor Gareth Sandilands echoed the importance of communication, which Councillor Tomlin had outlined; he suggested that photos be taken of the farmhouse and the surrounding area to ensure that people could remember what was at the site before any development.

Members raised whether the AONB had raised any concerns about the site. Responding officers clarified that the site wasn't in the AONB.

Proposal – Councillor Andrea Tomlin proposed the application be granted in accordance with officer recommendations, seconded by Councillor Gareth Sandilands

Vote –

For – 19
Against – 0
Abstain – 0

RESOLVED that the planning application be **GRANTED** in accordance with officer recommendation.

12 APPLICATION NO. 45/2023/0108/PF - 20 AQUARIUM STREET, RHYL

An application was submitted for the Conversion of ground floor retail premises to form a self-contained apartment and alterations to principle elevations at 20 Aquarium Street Rhyl.

General Debate –

Councillor Alan James (local member) informed the committee that the applicant for the site had unsuccessfully to attempt to lease the building as a retail premises, and the site was no boarded up and could become an eyesore site. Councillor James understood the concerns with flooding however, there were ongoing flood mitigation work in Rhyl, and whether the site was an apartment or retail premises the risk remained the same. The approval of the application would bring an unused property back into use and in keeping with the surrounding area.

Councillor Win Mullen-James agreed with Councillor James and highlighted that the two recent storms had no flood impact on the area.

Members supported the comments which were raised by Councillor James and felt the NRW's blanket approach to potential flood risk sites was hampering any local development. Officers responded that they took guidance from NRW, and it would help officers determine their recommendations.

Councillor Alan James highlighted his reasoning for granting to officers, contrary to their recommendations; the development would bring an unused property back into use. The property as it remained was not in keeping with the area. Councillor James also included if the application was granted that the apartment should be maintained as residential dwelling rather than a holiday let.

Proposal – Councillor Alan James proposed the application be granted contrary to officer recommendation, seconded by Councillor Huw Hilditch-Roberts

Vote –

For – 19
Against – 0
Abstain – 0

RESOLVED that the planning application be **GRANTED** contrary to officer recommendation.

13 LOCAL DEVELOPMENT PLAN 2006 - 2021: ANNUAL MONITORING REPORT 2023

This report was about the Denbighshire County Council (DCC) Local Development Plan (LDP) 2006 – 2021 Annual Monitoring Report (AMR) 2023

RESOLVED that *Planning Committee members note the content of the information report.*

Agenda Item 5

WARD : Denbigh Caledfryn Henllan

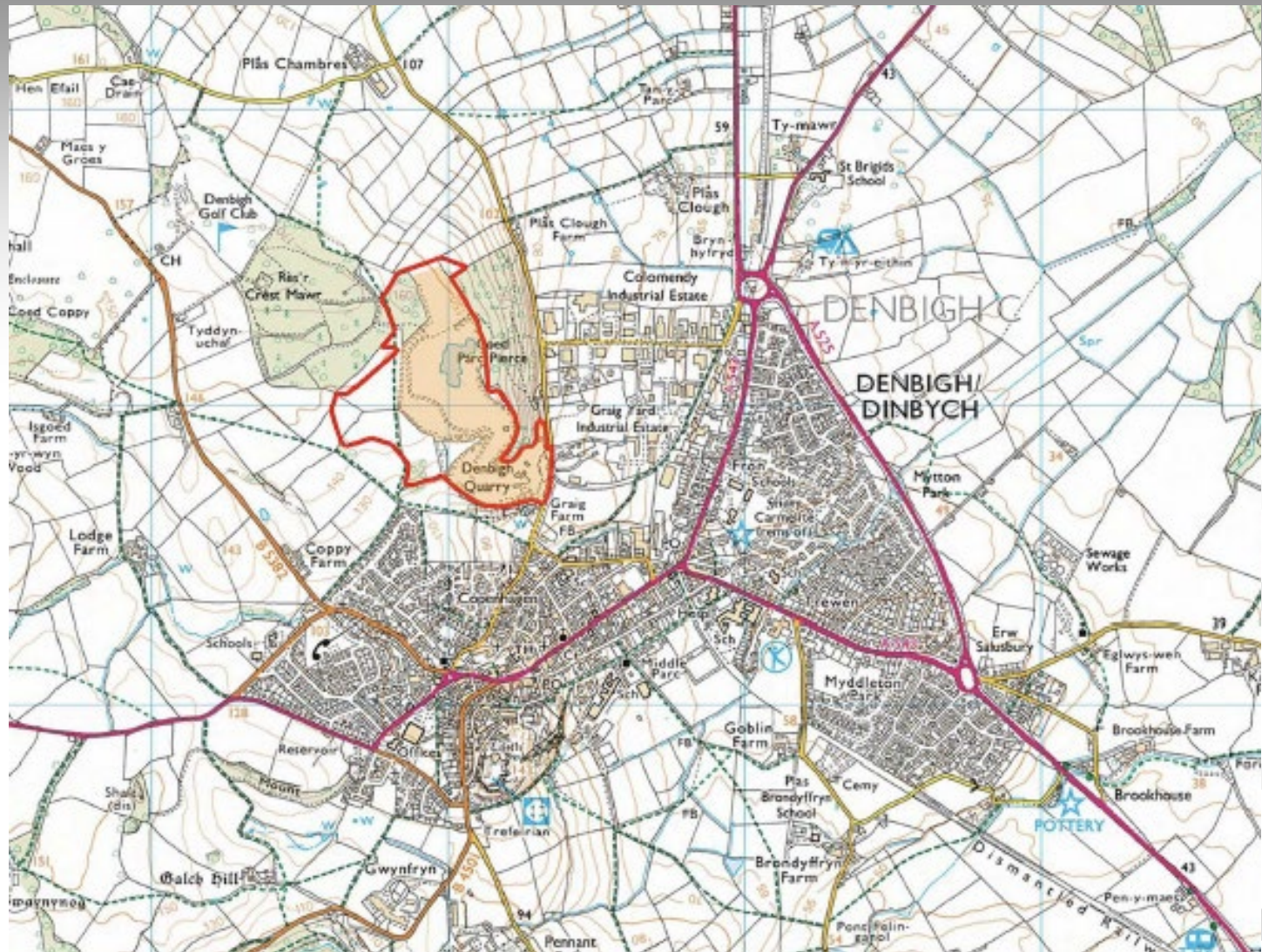
WARD MEMBER(S): Councillor Pauline Edwards
Councillor Delyth Jones (c)
Councillor Geraint Lloyd-Williams

APPLICATION NO: 01/2022/0523/ MA

PROPOSAL: Consolidating application for the extension of winning and working of limestone, importation of inert waste and restoration to amenity land.

LOCATION: Graig Quarry, Graig Road, Denbigh, LL16 5US

This page is intentionally left blank

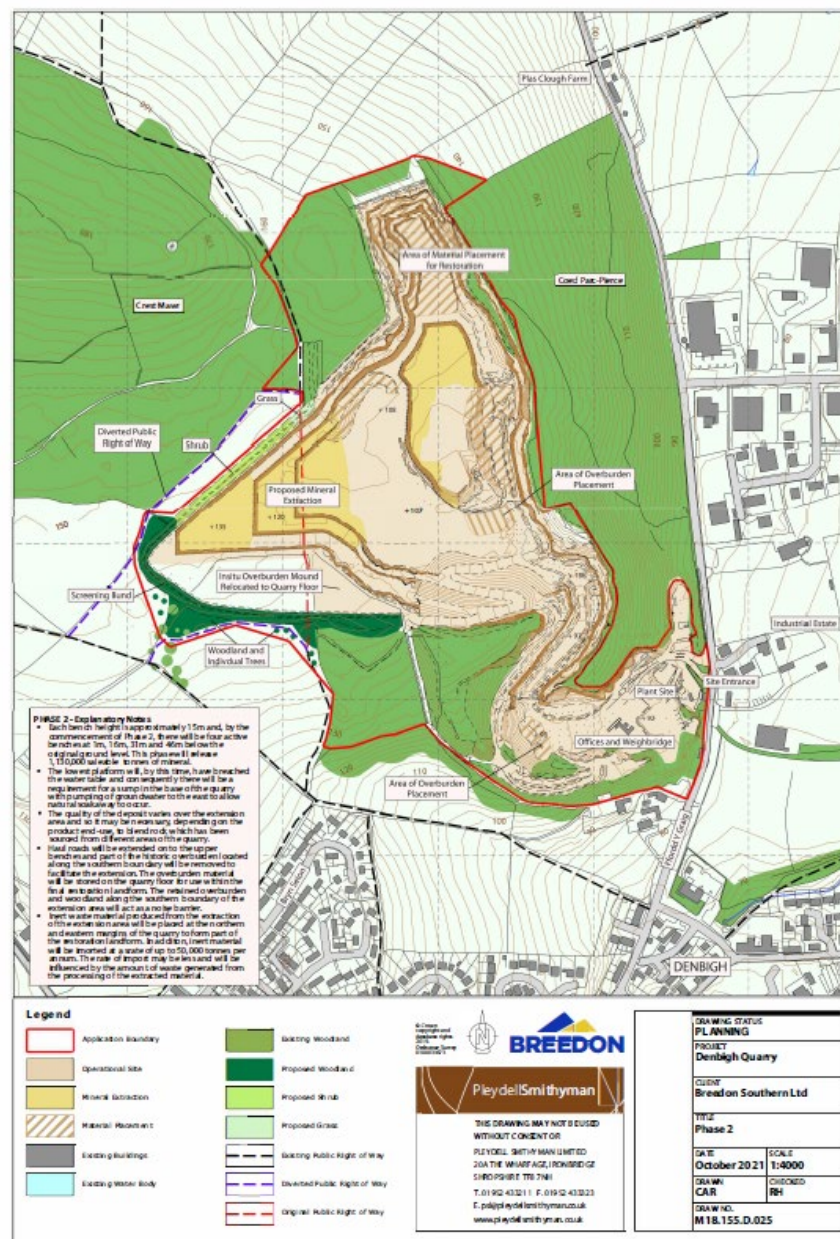


Location plan

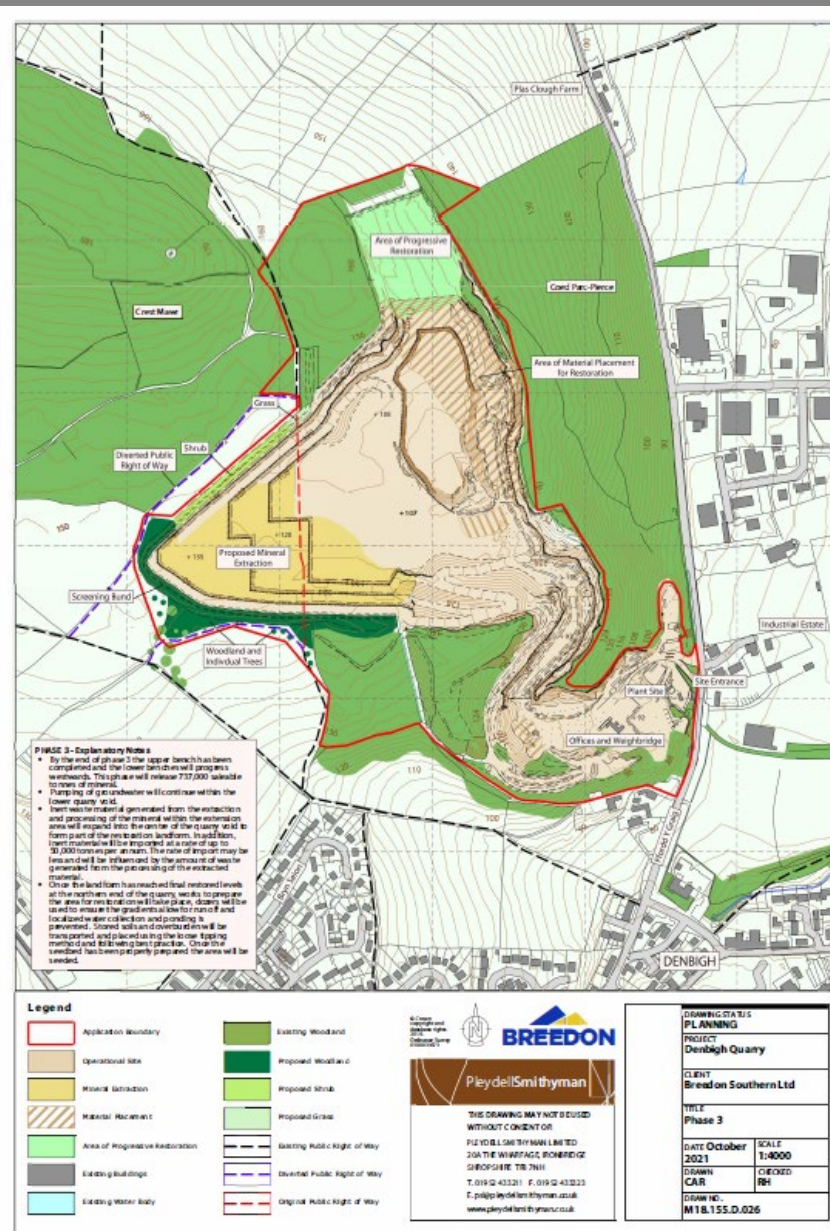


Existing site

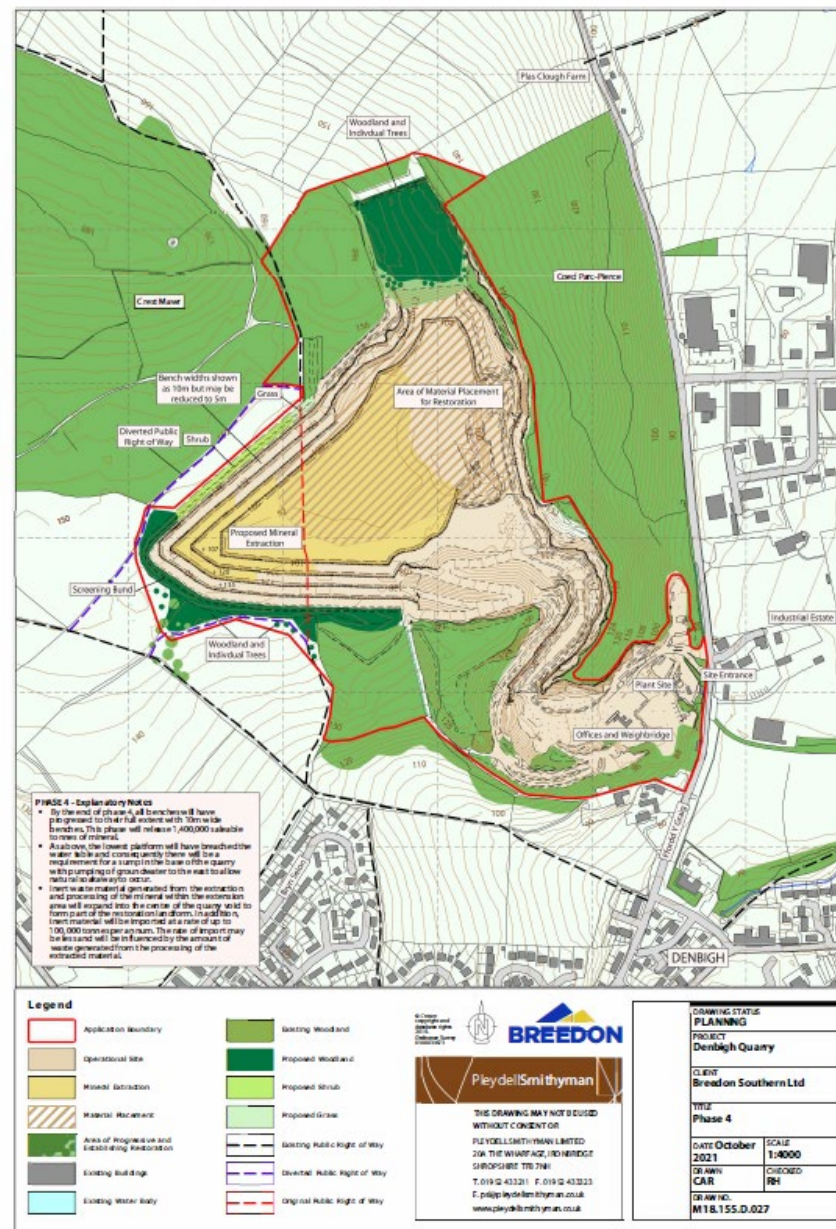




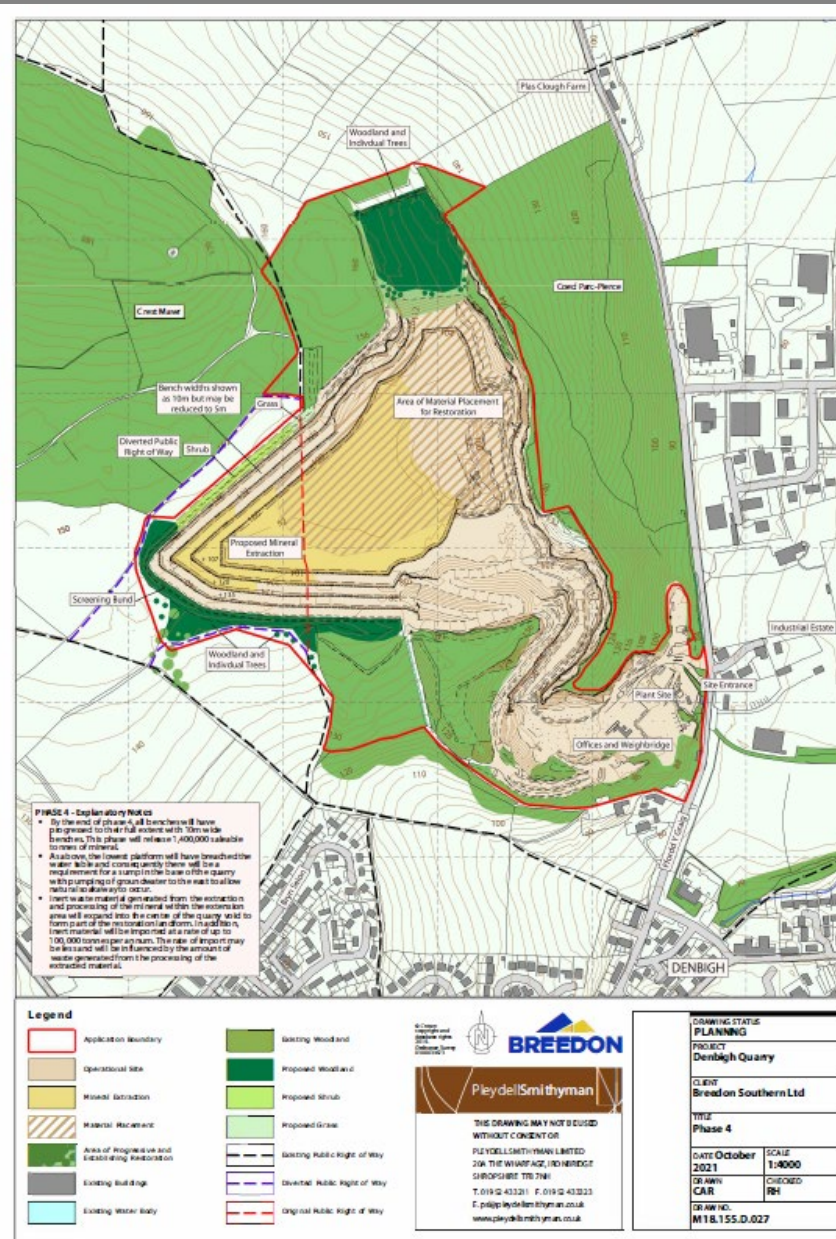
Proposed site – Phase 2



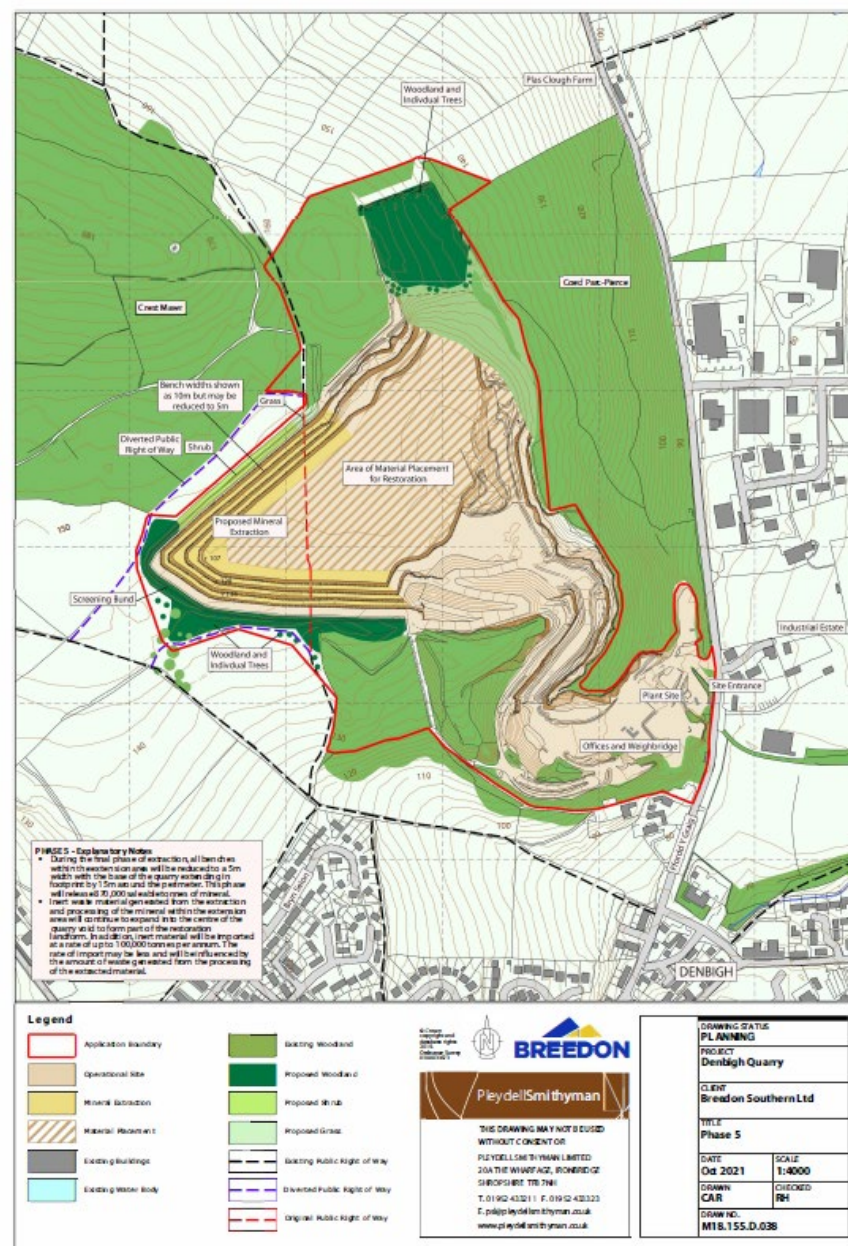
Proposed site – Phase 3



Proposed site – Phase 4



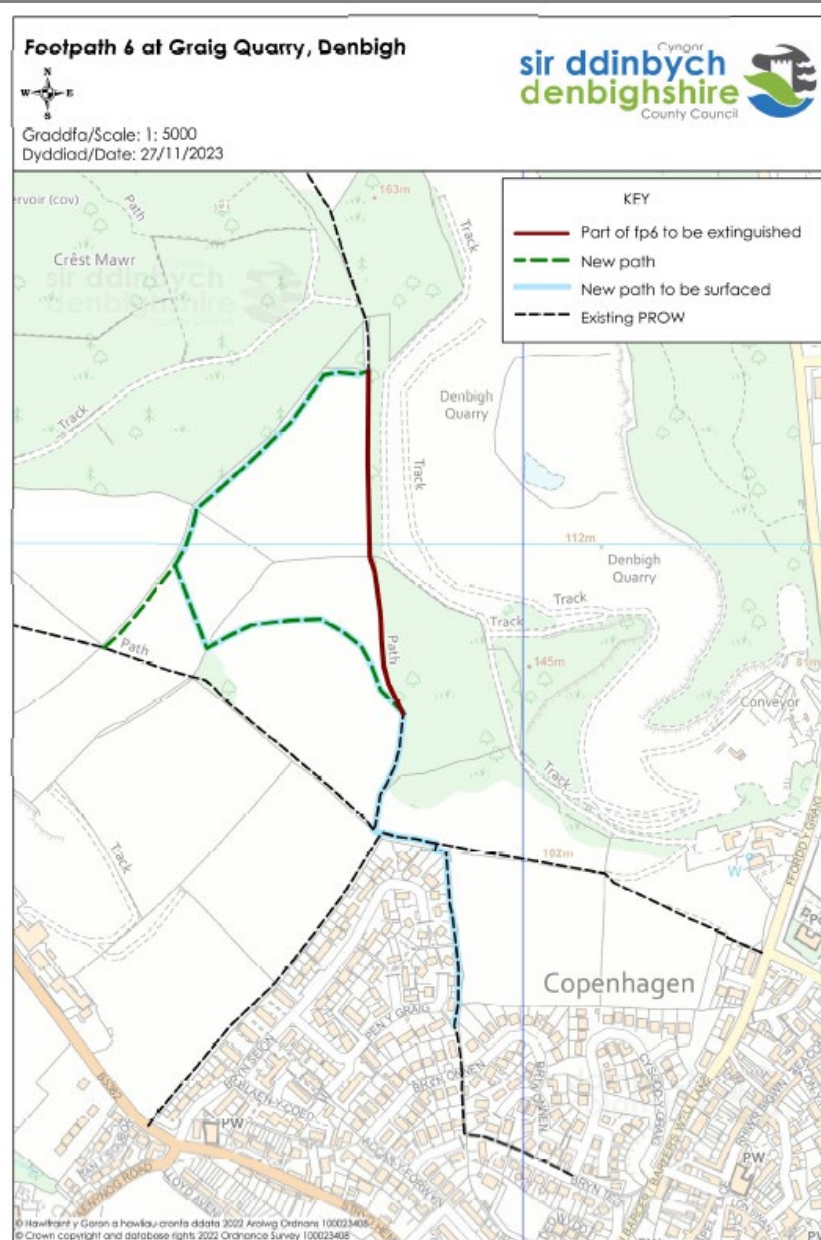
Proposed site – Phase 4



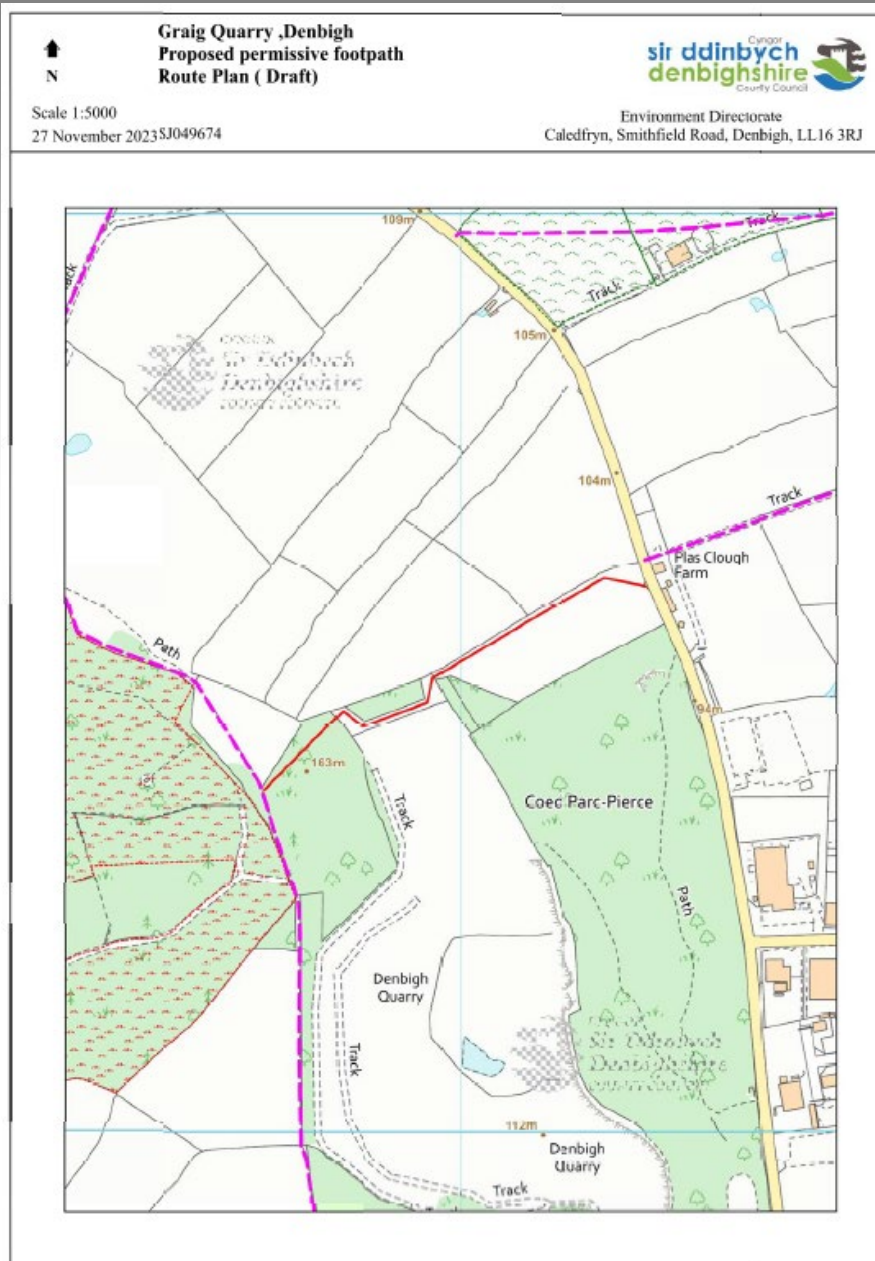
Proposed site – Phase 5



Restoration Concept



Public footpath routes to be altered / improved



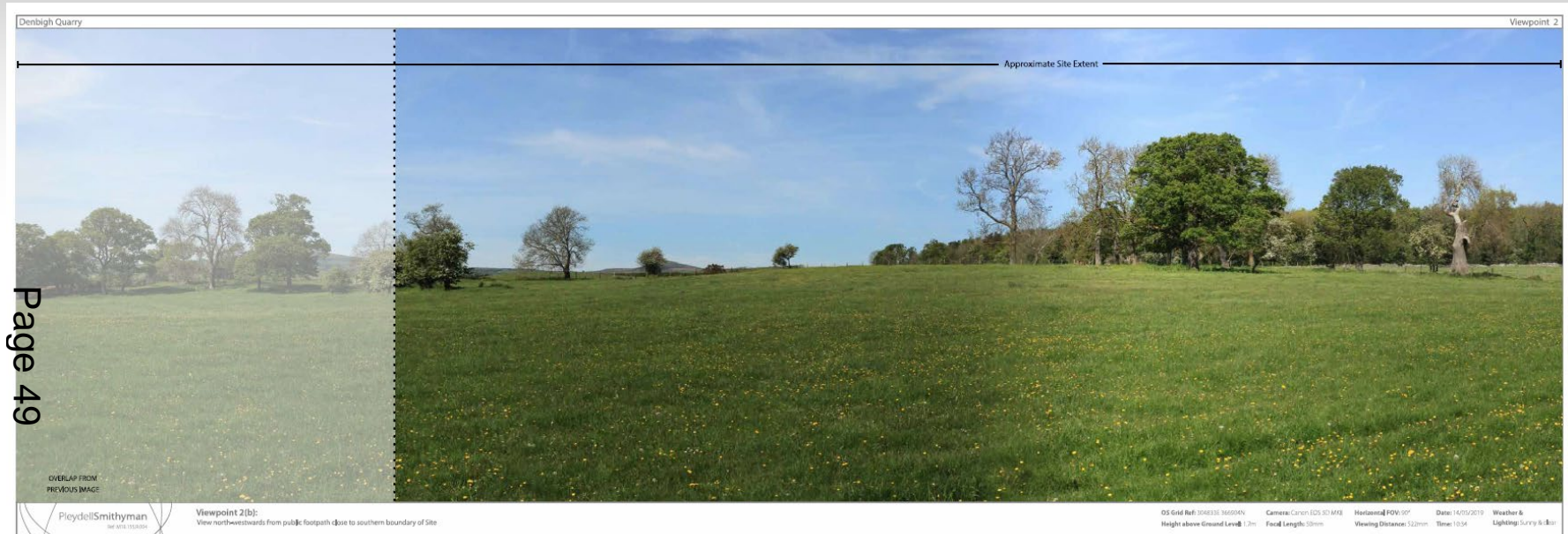
Proposed new permissive footpath route (draft)



View southwest from public footpath (1)



View north west from public right of way (2)



View northwest (b) from public right of way (2)



View northwest (c) from public right of way (2)



View northeast from public right of way



View north from public right of way



View north (b) from public right of way

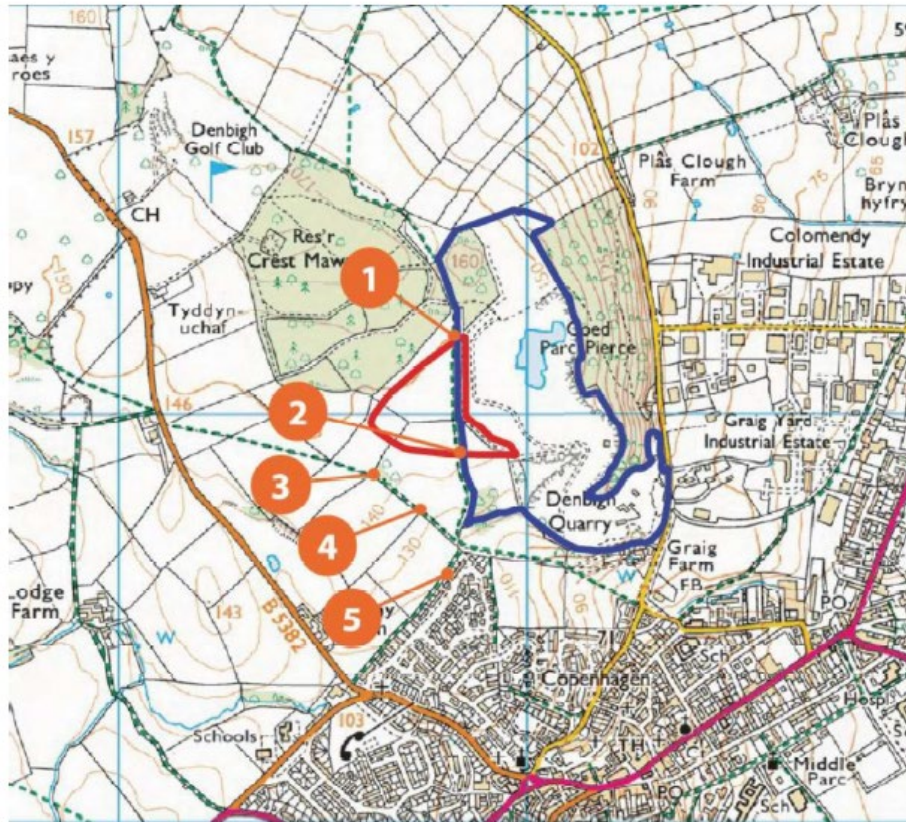


Page 59

View northeast towards site from Denbigh Castle

LANDSCAPE AND VISUAL IMPACT ASSESSMENT FOR CONTINUED QUARRYING
OPERATIONS AT DENBIGH QUARRY, DENBIGH

Plate 3: Close Range Viewpoints (Extract of Figure 4.4)



Viewpoint locations

WARD : Denbigh Caledfryn Henllan

WARD MEMBER(S): Councillor Pauline Edwards
Councillor Delyth Jones (c)
Councillor Geraint Lloyd-Williams

APPLICATION NO: 01/2022/0523/ MA

PROPOSAL: Consolidating application for the extension of winning and working of limestone, importation of inert waste and restoration to amenity land.

LOCATION: Graig Quarry, Graig Road, Denbigh, LL16 5US

APPLICANT: Mr C Burgess, Breedon Southern Limited

CONSTRAINTS: Tree Preservation Order SSSI PROW Ancient, Semi Natural Woodland

PUBLICITY UNDERTAKEN: Site Notice - Yes
Press Notice - Yes
Neighbour letters - Yes

Regulation 24 Consultation: Commenced 16/08/23 for 30 days in accordance with the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017
Site Notice - Yes
Press Notice - Yes
Neighbour letters - Yes

REASON(S) APPLICATION REPORTED TO COMMITTEE:
Scheme of Delegation Part 2

- Recommendation to grant – 4 or more objections received
- Recommendation to grant – Town Council objection
- Member request for referral to Committee

CONSULTATION RESPONSES:

DENBIGH TOWN COUNCIL:

Objections have been raised by Denbigh Town Council with respects to:

- Environmental issues to include health and wellbeing, damage to properties, dust pollution, noise pollution, loss of green spaces/public space for recreational purposes,
- Traffic – more traffic on an already busy road.
- High impact on local residents.
- No benefit to Denbigh residents.
- There is no need for the products from the quarry in Denbighshire.
- The town councillors would also like it noted that if the plans do not come to fruition and in time the quarry closes that the current employees are offered work at an alternative location and not made redundant.

Following the Regulation 24 Consultation, no new objections were raised by the Town Council and their comments remained the same as above.

NATURAL RESOURCES WALES (NRW)

No objections raised subject to conditions relating to the protection of European Protected Species, namely the great crested newt, long term nature conservation management and hydrology and hydrogeology.

DWR CYMRU / WELSH WATER

No objection.

Dwr Cymru/Welsh Water requests an advisory note with regards to ensuring no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

CADW

No objections to the proposed development with regards to the designated historic assets.

CLWYD POWYS ARCHAEOLOGICAL TRUST (CPAT)

No objections subject to a condition to facilitate a scheme of archaeological investigation using a strip/map/excavate methodology as a condition of consent to secure preservation by a record of all archaeological remains which may be impacted by the development. The applicant should engage an archaeological contractor to complete this work and a written scheme of investigation (WSI) would need to be approved before the archaeological works commence.

NORTH WALES WILDLIFE TRUST

Objects to the planning application; concerns with regards to the impact on wildlife may not have been adequately assessed which could affect the success of mitigation measures. North Wales Wildlife Trust have concerns that the majority of the wildlife surveys that accompanied the application are out of date. They also have concerns with regards to the mitigation works proposed particularly in relation to the replacement planting and question if this would adequately mitigate for the loss of regenerating woodland habitat occurring as a result of the development.

WELSH GOVERNMENT SOIL POLICY AND AGRICULTURAL LAND USE PLANNING UNIT

No objections to the proposal.

NFU CYMRU

Notes the support for the application from the agricultural sector and confirm the need for a local supplier of agricultural lime.

ENVIRONMENTAL PUBLIC HEALTH SERVICE WALES (EHPS)

Initially EHPS had some concerns due to the lack of detailed assessment regarding the impact of quarry operations on local air quality and were of the view that further dust impact assessment and data would be needed. A further dust impact assessment has been undertaken, and an addendum to the noise assessment have been submitted as part of the consideration of the application.

Following further consultation, EHPS recommended that the Minerals Planning Authority as the regulator, confirm if the mitigation measures proposed in the application with regards to impact on local air quality and noise controls proposed are satisfactory.

EHPS have recommended that a Dust Management Plan is required by so that the amenity of the local area, including nearest residential receptors, and the users of the nearby public footpath are not affected.

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES –

- Highways Officer; no objection.
- Footpaths Officer; no objection subject to a condition requiring a scheme of detailed footpath improvements.
- Public Protection Officer (outsourced to external consultant Enzygo Limited)

Enzygo Limited were commissioned to assess the air quality and dust impact assessment and the Noise and vibration assessment. Following the initial consideration of the submitted assessments, Enzygo Limited recommended further dust and noise assessments were undertaken.

On receipt of the further dust impact assessment and addendum to the noise and vibration assessment, Enzygo Limited have confirmed that with the proposed mitigation measures, dust, noise and vibration could be controlled to acceptable levels. A condition would be required to ensure that best practice noise and dust management measures are employed on site, a dust management and monitoring strategy would be required by condition and noise limits should be conditioned, along with the requirement to monitor noise throughout the life of the development.

- Ecology Officer; no objection to the application subject to conditions in relation to the control of invasive non-native species, protected species protection, restoration to ensure successfully managed restoration for nature conservation, and the control of lighting.
- Tree/Landscape Specialist; no objection to the application.

RESPONSE TO PUBLICITY: -

In objection

Representations received from:

Yvonne Lloyd, Bron Haul, Henllan Place, Denbigh (O) Karen McAulay, Lliwen, Prion (O) Chiara Sirianni, 111 Bryn Seion, Denbigh (O) Anna Holley, 33 Mytton Park, Denbigh (O) David Lloyd, 22 Cysgod Y Graig, Denbigh (O) Sadie Rhea Williams, 54 Bryn Seion, Denbigh (O) Sian Lloyd Davies, 34 Park Street, Denbigh (O) Karen Dunford, Tyn Y Graig, Betws GG (O) Dafydd Cunningham, Bryn Dedwydd, Denbigh (O) Tracy Jones, 45 Grove Road, Denbigh (O) Shelley Jones, 26 Pistyll, Holywell (O) Lezli Mountcastle-Wingate, 14 Rhos Street, Ruthin (O) Simon Classon, 54 Pen Y Graig, Denbigh (O) Leaf Pettit, 2 Hendre Cottages, Llanelidan, Ruthin (O) Helen Packer, Fach Gau, Groes, Denbigh (O) Paula Roscoe, 1 High Park, Gwernaffield (O) Jane Morrow-Winn, Bryn Awel, 65 Beacons Hill, Denbigh (O) Emyr Thomas, 20 Cysgoed Y Graig, Dinbych (O) Hazel Foulkes, 5 Ffordd Celyn, Denbigh (O) Katie Jones, 9 Bryn Onnen, Denbigh (O) Hannah Sabrun, LL16 4BA (O) Dawn Biott, 2nd Floor Rock House, Highgate, Denbigh (O) Helen Job, 2 Maes Garnedd, Peniel, Denbigh (O) Charlotte Tomkins, 19 Arfon Grove, Rhyl (O) Sadie Rhea Williams, 54 Bryn Seion, Denbigh (O) Gwilym Jones, 71 Bryn Seion, Denbigh (O) Heddwyn Gunes, 76 Vale Street, Denbigh (O) Clwyd Wynne, 25 Accar y Forwyn, Denbigh (O) Chris Baldwin, 2 Pen Dinas, Parc Derwen, The Green (O) x2 Craig Beaton, 111 Bryn Seion, Denbigh (O) Mark Kelly, Yr Hen Efail, Tremeirchion (O) Mr K Needham, 22 Accar y Forwyn, Denbigh (O) Harriet King, 9 Tower Terrace, Denbigh (O) Helena Cawthray, Glan Lliwen, Nantglyn (O) Katharine Noden, 10 Lon Alun, Denbigh (O) Eifion Smith, 93 Bryn Seion, Denbigh (O) Carly Jones, 17 Accar y Forwyn, Denbigh (O) Mairead Edwards, Bryn Seion, Denbigh (O) Angharad Tucker, 17 Bryn Seion, Denbigh (O) Keith Brazier, 165 Ffordd Coppy, Denbigh (O) Sharon Jones, 2 Lon Caerau, Denbigh (O) John Allison, 12 Lon Alun, Denbigh (O) Delyth Allison, 12 Lon Alun, Denbigh (O) Stephen Williams, 21 Bryn Onnen, Denbigh (O) Scott Dumayne, 14 Bryn Onnen, Denbigh (O) Laura Moore, 5 Graig Terrace, Denbigh (O) Adele Thomas, 3 Rose Villas, Middle Lane, Denbigh (O) Catherine Davies, 42 Crud Y Castell, Denbigh (O) Joseph Daniel Loney, 115 Bryn Seion, Denbigh (O) Lianne Williams, 2 Blaen Y Coed, Denbigh (O) Anita Williams, 21 Bryn Onnen, Denbigh (O) Sandra Williams, 2 Llewelyns Estate, Denbigh (O) William Jones, 2 Lon Caerau, Denbigh (O) Sarah Zielonka, 61 Bryn Seion, Denbigh (O) Nest Houghton, 25 Castle View, Denbigh (O) Carol Ann Wynne, 25 Accar Y Forwyn, Denbigh (O) Sandra Wilberforce, 23 Garrong Close, Edgewater, W Australia (O) David Thomas, 3 Rose Villas, Middle Lane, Denbigh (O) Norman Wells, 3 Grove Road, Denbigh (O) Anne Weeks, 7 Pont y Bedol, Llanrhaeadr (O) Angharad Edwards, 62 Bryn Seion, Denbigh (O) Ceri Roberts, 25 Grove Road, Denbigh (O) Gail McNab, 2 Cae Topyn, Denbigh (O) Isa Lamb, 19 Bryn Teg, Denbigh (O) Kerry Crayden, 8 Lon Ceiriog, Denbigh (O) Ruth Crowther, Gors, Rhiw, Groes (O) Stephen Tootell Bryn Clwyd, Brookhouse Road, Denbigh (O) Nicola Forshaw, 10 Llys Thomas Jones, Denbigh (O) Vikki Leah, 123 Bryn Seion, Denbigh (O) Jo Morris, 57 Beacons Hill, Denbigh (O) Jenny Franklin, 12 Lon Ceiriog, Denbigh (O) Mr & Mrs D A Roberts, 28 Parc y Llan, Henllan (O) Menai Baugh, Clydfa, Ffordd Eglwyswen, Dinbych

(O)Keith Jones, 27 Cysgod y Graig, Denbigh (O)Ieuan Wynne Lewis, 14 Lon Alun Colomendy Estate, Denbigh (O)Peter Davies, Gwaenynog Cottage, Denbigh (O)Rachel Nash, 2 Plas Chambers Farm, Denbigh (O)Caitlin Forshaw, 10 Llys Thomas Jones, Denbigh (O)Beverley Kelly, 11 Bronant Estate, Trefnant (O)David & Patricia Cairns, 24 Hilary Close, Denbigh (O)Sue Williams 40 Ffordd Colomendy, Denbigh (O)Alwyn Thomas, Werndeg, Park Street, Denbigh (O)Betty Thomas, Werndeg, Park Street, Denbigh (O)Catrin Hughes, Gwenallt, Park Street, Denbigh (O)Fiona Roberts, 33 Maes Glas, Denbigh (O)Clwyd Nash 24 Lon y Fedwen Arian, Denbigh (O)Gavin Jones, Accar y Forwyn Denbigh (O)Glyn Edwards, 18 Abbey Court, Denbigh (O)Leyla Beattie, 35 Llys Gwydyr, Denbigh (O)John Myddleton, 25 Parc Y Llan, Henllan (O)Gwyneth Kensler, 44 Vale Street, Denbigh (O)Kirsten Sedgwick, 2 Church Street, Llanfair TH (O)John Musgrave, 19a Park Street, Denbigh (O)Sian John, Dol Fechlas, Bodfari (O)Lisa Roberts, 1 Llewelyns Estate, Denbigh (O)Brenda Mason, 38 Gwalia Villas, Castle Hill, Denbigh (O)Gwyneth Jones, 1 Bryn Seion, Denbigh (O)Tom Simkiss, Leicester Terrace, Denbigh (O)Alison Gage, 10 Clwyd Avenue, Denbigh (O)Amanda Roberts, Bryn Seion, Denbigh (O)Dr Sharon Griffiths, Bimeda, 23/24 Colomendy Ind Est. Denbigh (O)Colin Moore, 105 Bryn Seion, Denbigh (O)Sophie Maguire, 58 Pen Y Graig, Denbigh (O)Christopher Griffith, 58 Pen Y Graig, Denbigh (O)Liz Kameen, Church House, Prion (O)Leah Thomas, 20 Cysgod Y Graig, Denbigh (O)Mari Roberts, 3 Lon Y Fedwen, Arian (O)Beti Thomas, 26 Llys Gwydyr, Denbigh (O)Victoria Mulholland, Gwyfan, Beacons Hill, Denbigh (O)Megan Loney, Glanfa Morfa, Bychan, Porthmadog (O)James Garvey, 61 Maes Y Goron, Denbigh (O)Meryl Jones, 24 Accar Y Forwyn, Denbigh (O)B Roberts, 40 Bryn Seion, Denbigh (O)Phoebe Lewis, Gwylfa, 69 Bacons Hill, Denbigh (O)Clwyd Griffiths, 10 Chapel Place, Denbigh (O)Seth Cunliffe, 5 Graig Terrace, Denbigh (O)Faye Stephens, Lleweni, Wern Uchaf, Ruthin (O)Andrew Garvey, 22 Bro Deg, Ruthin (O)Gareth Davies MS, Welsh Parliament, Cardiff Bay (O)Dr James Davies MP, House of Commons, London (O) Llyr Gruffydd MS, Welsh Parliament, Cardiff Bay (O) Steve Caruthers, 15 Vale Street, Denbigh (O)Emma Robshaw-Jones, Cynythog, Abbey Road, Denbigh (O)Margaret Hards, Seler, Llangynhafal (O)Rebecca Jones, 42 Bryn Garth, Denbigh (O)Mazhar Iqbal, Plas Clough Barn, Graig Road, Denbigh (O)Timothy B Webb, 25 Park Street, Denbigh (O)Josephine Brett, Segrwyd Mill Cottage, Nantglyn, Denbigh (O)Jane Shaw, Gelli'r Bugail, Llandyrnog (O)Margaret Roberts, 91 Bryn Seion, Denbigh (O)Christine Thomas, 3 Llys Y Gamog, Denbigh (O)Bleddyn Jones, 8 Lon Y Fedwen Arian, Denbigh (O)Susan Vaughan-Jones, 4 Caer Gofaint, Groes (O)Sarah Cumming, 34 Trewen, Denbigh (O)Melanie Davies, 41 Llewelyns Estate, Denbigh (O)Charlotte Roberts, 5 Lon Llewelyn, Denbigh (O)Michael Hind, Plas Clough Farm, Denbigh (O)Brbara Manley, 20 Park Street, Denbigh (O)Dr Michael Toman, 1 Bryn Onnen, Denbigh (O)Kate Wright, Tryfan Uchaf, Henllan (O)Lee Evans, Gardd Amos, Tan y Fron,Bylchau (O)Matthew Alexander Jones, Maes y Goron, Denbigh (O)Jeni Murgatroid, 45 Maes y Dre, Denibgh (O)John Wynne, 4 Accar y Forwyn, Denbigh (O)Florence Wynne, 4 Accar y Forwyn, Denbigh (O)Mair Jones, Gwenallt, 14 Beacons Hill, Denbigh (O)Linda Tucker, Coed Bedw, Henllan (O)Georgina Haf Robertshaw, 48 Love Lane, Denbigh (O)John Stewart, Bryn Meirchion, Hen Lon, Henllan (O)Nicola Evans, 11 Maes Gruffydd Trefnant (O)Eve Beckwith, 4 Llys Tan y Griag, Denbigh (O)Leslie Prescott, 121 Bryn Seion, Denbigh (O)Steve Knightly, 1 Bryn Onnen, Denbigh (O)Sian Sullivan, 73 Fairwater Grove East, Cardiff (O)Carol Hughes, 53 Beacons Hill, Denbigh (O)Prue Stothard, 7 Chetwynd Close, Prenton Wirral (O)Margaret Pritchard, 2 Smithfield Road, Denbigh (O)Eirian Roberts, 10 Cysgod y Graig, Denbigh (O)Linda Pritchard, 32 Bryn y Garth, Denbigh (O)Julie OHara, Clwydfan, Llanrhaeadr (O)Alisoin Bromley, 9 Cysgod y Graig, Denbigh (O)Sydney Van den Broeck, Werna, Ruthin Road, Denbigh (O)Joanne Taylor, 24 Bryn Onnen, Denbigh (O)Huw Edwin Davies, 17 Bryn Onnen, Denbigh (O)John Jones, 11 Lon Alun, Denbigh (O)John Roberts, Erw Las, Ruthin Road, Denbigh (O)Ela Jones, 1 Crud yr Awel, Denbigh (O)John Jones, 16 Accar y Forwyn, Denbigh (O)Catrin Jones, 1 Crud y Castell, Denbigh (O)Elizabeth Karen Roberts, Bryn Celyn, Denbigh (O)Davina Roberts, 34 Bryn GArth, Denbigh (O)Emily Horton Jones, Lon y Fedwen Arian, Denbigh (O)Walter & Anne Roberts, Hendre, Ffordd Eglwyswen Dinbych (O)Sian John, 5 Graig Terrace, Denbigh (O)James Grenville Rowse, 21 Accar y Forwyn, Denbigh (O)Gillian Parry, 9 Bryn Onnen, Denbigh (O)Kathryn Carman, Clearmont, Llanychan (O)Les Prescott, 121 Bryn Seion, Denbigh (O)Mrs June Pugh, Graig Farm, Denbigh (O)Margaret Croker, 58 Bryn Seion, Denbigh (O)Lindsay Griffin, 36 Pen Y Graig, Denbigh (O)David Wynne, 11 Cysgod Y Graig, Denbigh (O)Susan Foulkes, 10 Hillside, Denbigh (O)Dafydd Jones, Glyn Garth, Ruthin Road, Denbigh (O)Frances Knightley, 1 Bryn Onnen, Denbigh (O)Sue Hewitt, 36 Pen Y Graig, Denbigh (O)Emma Cato, 3 Bryn Seion, Denbigh (O)Sue Kilcullen, 15 Bryn Onnen, Denbigh

(O)John Houghton, 10 Heol Hendre, Rhuddlan (O)Douglas Morgan, 23 Accar Y Forwyn, Denbigh (O)Ellena Lillie, 8 Blaen Y Coed, Denbigh (O)Rob Parkes, Bwa Fflat Cottage, Bakerswell Lane, Denbigh (O)Justin Andrews, 8 Blaen Y Coed, Denbigh (O)Julia Parkes, Bwa Fflat Cottage, Bakerswell Lane, Denbigh (O)Darren Jones, 8 Lon Ceiriog, Denbigh (O)Haf Hughes, 1 Stable Cottage, Bull Lane, Denbigh (O)Karen Littler Jones, 13 Bishops Walk, St Asaph (O)Sam Noden, 10 Lon Alun, Denbigh (O)Sioned Sellers, 15 Accar Y Forwyn, Denbigh (O)Joshua Stocker, 18 Post Office Lane, Denbigh (O)Dyfrig Berry, Bodaeron, 10 Lon Nant, Dinbych (O)Angela Davies, 6 Love Lane, Denbigh (O)Mark Eaglen, 6 Love Lane, Denbigh (O)Oliver Eaglen, 6 Love Lane, Denbigh (O)Simon Winn, Bryn Awel, 65 Beacons Hill, Denbigh (O)Gronwy Wynne, 20 Accar Y Forwyn, Denbigh (O)Peter Devenport, Nantgwyn, Nantglyn (O)Raymond Foulkes, 10 Hillside, St. Asaph (O)Janet Evans, Foundry Garage House, Chapel Place, Denbigh (O)Elfed Evans, Foundry Garage House, Chapel Place, Denbigh (O)Glenn Swinger, 27 Rhyll Road, Denbigh (O)Samantha Andrews, 40 Ffordd Caledfryn, Denbigh (O)Lesley Hughes, Hafod, Plas Isaf, Llangynhafal (O)Chris Evans, Maes Onnen, Love Lane, Denbigh (O)Gwenda Roberts, 14 Accar Y Forwyn, Denbigh (O)Chloe Simpson, 79 Maes Y Goron, Denbigh (O)Lisa Roberts, 48 Love Lane, Denbigh (O)Glenda Bibby, Plas Rhos, Hen Ffordd Rhuthun, Dinbych (O)Ruth Ellershaw, 52 Bryn Garth, Denbigh (O)Amanda Roberts, 15 Church Street, Rhyll (O)Laura Delves, 5 Chapel Street, Trefnant (O)Marcus Shipman, 5 Chapel Street, Trefnant (O)Gunars Grinvalds, 34 Bryn Onnen, Denbigh (O)Sara Vernon, 11 Bryn Teg, Denbigh (O)Elen Parry, Bod Hafod, Bryn Dedwydd, Dinbych (O)John & Danice Smith, 26 Meifod Road, Henllan (O)Ann Smith, 26 The Green, Denbigh (O)Andrew Garner, 71 Erw Salisbury, Denbigh (O)Nis Evans, Brynia, Valley Road (O)Gareth Davies, Graig Road, Denbigh (O)Edward Jones, 31 Middleton Avenue, Denbigh (O)Beverley Roberts, 28 Chapel Place, Denbigh (O)Merfyn Griffiths, 114 Bro Deg, Ruthin (O)Colette Hughes, 7 Maes Y Graig, Bodfari (O)Coral Lloyd, 5 Bryn Onnen, Denbigh (O)Sue Williams, 40 Ffordd Colomendy, Denbigh (O)Pamela Parry, 34 Post Office Lane, Denbigh (O)Steven Pearce, 64 Love Lane, Denbigh (O)Nadine Hunt, 20 Abbey Road, Denbigh (O)Carole Lomax, 24 Cysgod Y Graig, Denbigh (O)Ann Bowen-Jones, 8 Ruthin Road, Denbigh (O)Paul Vernon, 48 Bryn Seion, Denbigh (O)Menna Jones, Rofft, Grove Road, Denbigh (O)Janice Jones, 14 Lon Tywysog, Denbigh (O)Linda Marshall, 5 Ffordd Penycod, Trefnant (O)Nicole Marshall, 5 Ffordd Pen Y Coed, Trefnant (O)Mike Marshall, 5 Ffordd Pen Y Coed, Trefnant (O)Brian Winn, 28 Clwydian Park Avenue, St. Asaph (O)Anna Cooper, Bod Hafod, Bryn Dedwydd, Denbigh (O)Sophie Neale, 31 Lon Y Fedwen Arian, Denbigh (O)Ruthi Williams, 6 Abbey Court, Dinbych (O)Nia Roberts, 20 Ffordd Meifod, Henllan (O)Mari Hughes, 12 Cysgod Y Graig, Denbigh (O)Elin Hughes, 29 Post Office Lane, Denbigh (O)Jamie Hughes, 29 Post Office Lane, Denbigh (O)Gwenno Owen-Jones, 12 Cysgod Y Graig, Dinbych (O)Mike Hughes, 12 Cysgod Y Graig, Denbigh (O)Iwan Roberts, Pentre Cader, Nantlyn Dinbych (O)Ruth Ellershaw, 52 Bryn Garth, Denbigh (O)Heidi Ridder Jones, 63 Bryn Garth, Denbigh (O)Manon Evans, Foundry Garage House, Chapel Place, Denbigh (O)Tomos Jones, 12 Cysgod Y Graig, Denbigh (O)Elin Wyn Hughes, 29 Post Office Lane, Denbigh (O)Mrs E K Jones, 8 Lon Alun, Denbigh (O)Yvonne Lloyd, Bron Haul, Denbigh (O)Chris Griffith, 58 Pen Y Graig, Denbigh, LL16 3YY (O)Eifion Smith, 93 Bryn Seion, Denbigh (O)Stephen Lloyd, Bron Haul, Henllan Place, Denbigh, LL16 3TN (O) Stephen Smith, 31 Heol Afon, St Asaph (O) K Needham, 22 Accar-Y-Forwyn, Denbigh (O)

Summary of planning-based representations in objection:

Health Impacts and Residential amenity impact

- The negative impact which will seriously harm the health and wellbeing of the environment and social well-being of the neighbouring population, and their quality of life
- Reduced lifespan of local residents due to chronic inhalation of dust from the quarry
- Increased noise and dust and harmful particulates in the air
- Unacceptable levels of noise and disturbance from the quarry including reversing beepers and operational noise including blasting
- Increase in dust as a result of blasting
- The quarry is too close to residential properties and too close to Denbigh
- Effect of blasting on neighbouring property
- Potential structural damage to the surrounding properties from blasting at the quarry and concerns about structural safety
- Lack of data provided on the vibration levels experienced at neighbouring properties

- Loss of public open space
- Loss of Green space and natural environment used for leisure activities and learning about nature
- Loss of public footpath
- No benefit to the people of Denbigh
- Contrary to Denbighshire County Council's Policies on clear air
- Increase in harmful particulates in the air from heavy traffic
- Detrimental impact on tranquillity
- Odour
- Impact from Radon emissions
- Safety of the boundary treatment associated with the quarry

Impact from Blasting

- Structural impact on nearby properties causing cracks in plaster and external walls from blasting
- Noise, dust and disturbance from blasting
- Effect of mental health and well-being from blasting and properties shaking as a result of blasting at the quarry
- Risks from fly rock from blasting

Landscape and Visual Impact

- Detrimental impact on the destruction of landscape and harmful visual impact
- Detrimental impact on a historic landscape

Highway impact

- Loss of public rights of ways, byways and walkways
- Removing access to the SSSI woodland by extinguishing a public right of way
- Insufficient details provided in relation to the diversion of the public right of way
- Impact on the local highway network and its capacity to accommodate quarry vehicles
- Increase in pollution carbon emissions, noise and dust
- Contrary to Denbighshire County Council's policies on Active travel

Ecological / wildlife impact

- The environmental impact on Crest Mawr Wood and Graig Quarry Sites of Special Scientific Interest (SSSI) and its species from vibration, noise, dust, human activity and industrial machines
- The impact specifically on the purple gromwell which is a feature of the SSSI and lack of evidence to demonstrate that the colony has not been harmed by the quarrying activity
- Lack of management of the SSSI and the prevention of sheep stock within the protected area
- Impact on nature conservation due to the loss of habitat
- Impact on flora and fauna
- Impact on European Protected Species
- Impact on nesting birds
- Loss of trees/woodland, ancient woodland and the impact on carbon absorption
- Loss of topsoil and vegetation
- Irreversible harm to the ecosystem and loss of habitats

Other matters

- Geological effects that could threaten the water supply of local wells
- Ground water contamination
- Lack of restoration details
- Detrimental to Listed Buildings
- Impact on property values
- Contrary to Denbighshire County Council's policies on Climate Change and the goals of decarbonisation

- Loss of heritage

Land use planning matters

- Unknown future use for the site – potential risk of landfill
- Impacts on potential new housing allocations and other development in the locality
- There is no justification or need for the development
- Welsh Government should be the decision maker
- The proposal is a departure from the development plan
- Contrary to the Well-being of Future Generations Act 2015; contrary to the well-being goals.
- Contrary to Planning Policy Wales
- Delaying the restoration of the quarry site

In support

Representations received from:

Paul Jones, 8a Llys Dyffryn, Denbigh (S)
 David Bell, The Barn Siglen Uchaf, Llangynhafal (S)
 Rob Maurice Jones, Alyndale, Rosset, Wrexham (S)
 Robin Evans, Tir Y Coed, Penrhyndeudraeth, Gwynedd (S)
 Brian Owen, The Garage, Old Smelt Road, Coedpoeth (S)
 Sarah Owen, Toddfa, Old Smelt Road, Coedpoeth (S)
 Caroline Williams, Lon Glyn, Colomendy, Denbigh (S)
 Ian Williams, Lon Glyn, Colomendy, Denbigh (S)
 Meurig Jones, Williams & Williams, Melin Plas Du, Y Ffor (S)
 David Roberts, Llwyn Yr Ewig, Llanarmon Yn Ial (S)
 Lorraine Bevan, Glan Aber, Caergwrle (S)
 John Bevan, Glan Aber, Caergwrle (S)
 NFU Cymru, Ty Amaeth - Agriculture House, Builth Wells (S)
 Sioned Carey, Newlyn, Newton Road (S)
 Lee George, 40 Glan y Fedw, Betws yn Rhos (S)
 Tina Jones, Maes y Dre, Caerwys (S)
 Christopher Bryan, 41 Stryd y Wennol (S)
 Gayle George, Ty Calan Gaeaf, Betws yn Rhos (S)
 Robert Davies, 8 Porth y Dre, Ruthin (S)
 Kieran Power, 83 llys y Groes, Wrexham (S)
 Lee Mckee, 94 Upland Avenue, Connahs Quay (S)
 Malcolm Ellis, Bryn Elian, Blaenau Ffestiniog (S)
 John Roberts, 3 Mount Pleasant, Porthmadog (S)
 Gareth Blythin, 11 Violet Grove, Prestatyn (S)
 Gareth Bryn Jones, 19 Tudor Avenue, Prestatyn (S)

Summary of planning-based representations in support:

- Economic development and opportunities
- Continuation of employment at the quarry
- Sustaining employment and bringing business and employment to the Vale of Clwyd helping the local economy by employing local operators, hauliers, fitters, plant hire companies and other associated businesses indirectly benefiting from the quarry expansion
- Economic benefit local businesses
- Minerals are needed for everyday use
- The quarry supplies essential materials for builders, construction and agriculture
- A local supply of quarried materials would reduce traffic/travel for supplying quarry products which ensures prices for quarry products don't rise due to increased distances
- Supports the diversion of public footpath rather than its removal
- Supports the screening of the site by perimeter planting to minimise visual impact
- The quarry support the local community with charitable donations and support.

EXPIRY DATE OF APPLICATION: 16.08.2022

EXTENSION OF TIME AGREE: 31.01.2024

REASONS FOR DELAY IN DECISION (where applicable):

- delay in receipt of key consultation response(s)
- additional information required from applicant and Regulation 24 Consultation required
- protracted negotiations resulting in amended plans
- re-consultations / further publicity necessary on additional information
- awaiting consideration by Committee

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 The proposal seeks permission for a consolidating application which would effectively consolidate the current planning permission at Denbigh Quarry and in addition it includes a lateral extension to the west of the working area that would release approximately 4.4 million tonnes of saleable mineral, giving an overall life of mineral extraction of 25 years on the current extraction rates. The proposal also includes the importation of inert waste to facilitate the restoration of the quarry to amenity land and for the purposes of nature conservation.
- 1.1.2 This consolidating application includes the existing limestone quarry extraction activities consented under reference 01/2019/0757, comprising approximately 28 hectares and a proposed lateral extension to the west of the existing quarry void, comprising approximately 5 hectares and 4.4 million tonnes of limestone. The application would allow the extraction of the remaining limestone reserves within the consented site, and continuation of the working to the west; along with the importation of inert restoration material to bring levels back up to original ground levels on the north and lower elevations in the main body of the quarry.
- 1.1.3 The extant planning permission reference 01/2019/0757 expires on 31 August 2028. Should planning permission be granted, the period of quarrying is expected to continue for a period of an additional 25 years at an annual exportation rate of 200,000 tonnes per annum. The site would be progressively restored over five phases using overburden and onsite soils and also by importing inert restoration material (100,000 tonnes per annum) derived from construction, demolition and excavation operations. This would involve progressive restoration as the extraction progresses into the next phase.

1.2 Other relevant information/supporting documents in the application

- 1.2.1 The application is accompanied by an Environmental Impact Assessment, Planning Statement and Waste Planning Assessment which provides background information on the need to expand and the life of the quarry, and the need for restoration. Existing extraction rates are in the region of 200,000 tonnes per annum, and 100,000 tonnes per annum of inert restoration.
- 1.2.2 Further information was requested during the consideration of the application pertinent to the dust assessment and the noise and vibration assessment. This request was made under Regulation 24 of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017. An addendum to the Noise Assessment and a further Dust Impact Assessment has been provided at the request of the Mineral Planning Authority and a consultation was undertaken in accordance with the 2017 Environmental Impact Assessment Regulations.

1.3 Description of site and surroundings

- 1.3.1 Denbigh Quarry (also known as Graig Denbigh Quarry) is an active limestone quarry, located to the north of the town of Denbigh. The permitted site comprises approximately 28 hectares of land with the proposed extension area amounting to a further 5 hectares. The current use of the application extension area is predominantly agricultural land used for grazing/pasture.
- 1.3.2 To the north, west and south, the contiguous land is rural, predominantly agricultural fields and woodland comprising pasture and a mix of ancient and more recent woodland. Crest Mawr Wood to the north west of the exiting Quarry and adjacent to the extension area is a Site of Special Scientific Interest (SSSI) and another SSSI (Graig Quarry) is situated 150 metres to the southeast. The existing quarry is, itself, bound on the east by Fford y Graig/Graig Road, with the Colomendy Industrial Estate situated further to the east.
- 1.3.3 The Quarry is accessed off Ffordd y Graig/Graig Road via a purpose-built access road. To the south of the quarry entrance is a concrete batching plant, now operated by the applicant. This concrete batching plant is subject to a separate planning permission and therefore is not included within this consolidating planning application.
- 1.3.4 The closest residential dwellings are located to the south of the quarry over 250 metres away from the quarry boundary existing and proposed quarry boundary. There is one right of way that transects the extension area, and further are a number of public rights of way that surround the site.

1.4 Relevant planning constraints/considerations

- 1.4.1 The existing quarry is located within the Mineral Safeguarded Area (PSE15), however the extension area outside of this designation, adjacent to, but outside the development boundary of Denbigh as shown in the adopted Denbighshire Local Development Plan. As outlined above, the site is also in close proximity to Crest Mawr Wood Site of Special Scientific Interest (SSSI) and Graig Quarry SSSI.

1.5 Relevant planning history

- 1.5.1 The most recent planning permission, reference 01/2019/0757 was granted on 3rd October 2022 to allow the remaining reserves to be extracted over a longer period, until 31 August 2028. The permission was subject to a number of detailed conditions.
- 1.5.2 The site is subject to a Section 106 legal agreement which was tied to the 1992 planning permission and subsequently has been varied by a deed of variation as condition of granting permission reference 01/2019/0757. The existing legal agreement and deed of variation effectively protects land adjacent to the quarry from development, and also provides for management of Tŷ Crest Wood; a small woodland not included within the Crest Mawr SSSI. The deed of variation extends the management to include Crest Mawr SSSI and requires a management plan for both Ty Crest Wood and Crest Mawr to be undertaken every five years. Should planning permission be granted, the legal agreement would be required to be varied prior to a consent being issued.

1.6 Developments/changes since the original submission

- 1.6.1 As noted above, planning permission was granted in 2022 under reference 01/2019/0757 to vary the time limiting condition to allow additional time to work the remaining permitted reserves. At the time the planning application was drafted in 2020, the remaining reserves were in the region of 800,000 tonnes which has continued to be

worked at around 200,000 tonnes per annum. As such, the reserves have continued to deplete as the quarry has continued to work.

- 1.6.2 As stated above, an addendum to the Noise Assessment and a further Dust Impact Assessment has been provided to assist the Local Planning Authority in its determination of this application.

1.7 Other relevant background information

- 1.7.1 The quarry has a long history of quarrying activity, as it is understood it has been in existence for several hundred years. However, planning controls at the site were first introduced in 1948.
- 1.7.2 The most recent planning permission, reference was granted on 3rd October 2022 under reference 01/2019/0757 (subject to Section 106 legal agreement deed of variation) to vary the time limiting condition to allow additional time to work the remaining permitted reserves.
- 1.7.3 The applicant has undertaken formal pre-application consultation as required by the Town and Country Planning (Development Management Procedure) (Wales) Order, 2012 as amended by the 2016 Order.
- 1.7.4 A request for the Local Planning Authority to provide a formal Scoping Opinion for the proposal was made prior to the submission of the planning application. The Scoping Opinion was issued on 14th August 2019.

2. DETAILS OF PLANNING HISTORY:

- 2.1 Reference 01/2019/0757: Variation of condition No.1 of planning permission 01/2009/1424/PS to allow continuation of extraction of permitted reserves to 2028. GRANTED subject to Section 106 agreement deed of variation and conditions on 03.10.2022
- 2.2 Reference 01/2009/1424/PS: Variation of condition No.2 of planning permission code no. 5/11355 to allow a further 10-year period for the completion of minerals operation GRANTED under delegated powers on 15.03.2009 subject to a Section 106 legal agreement
- 2.3 Reference 5/11355: Extension to and restoration of the quarry GRANTED on 23.10.1992
- 2.4 Reference 2/1385: An extension to the quarry GRANTED on 18.02.1975
- 2.5 Reference 2/517: An extension to the quarry GRANTED on 23.01.1962
- 2.6 Reference 2/67: Working of Limestone GRANTED on 30.04.1948

3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

Local Policy/Guidance

Denbighshire Local Development Plan (adopted 4th June 2013)

Policy PSE15 – Safeguarding minerals

Policy PSE16 – Mineral buffer zones

Policy PSE17 – Future mineral extraction

Policy VOE1 - Key areas of importance

Policy VOE4 – Enabling development

Policy VOE5 – Conservation of natural resources

Policy VOE6 – Water management

Policy VOE7 – Locations for waste management

Policy VOE8 – Waste management outside development boundaries

Supplementary Planning Guidance

Supplementary Planning Guidance Note: Conservation and Enhancement of Biodiversity

Supplementary Planning Guidance Note: Listed Buildings

Supplementary Planning Guidance Note: Planning Obligations

Supplementary Planning Guidance Note: Trees & Landscaping

Government Policy / Guidance

Planning Policy Wales (Edition 11) February 2021

Welsh Government 'Chief Planning Officers' letter dated 11 October 2023 updating Chapter 6 of Planning Policy Wales with regards to Net Benefit for Biodiversity

Development Control Manual November 2016

Future Wales – The National Plan 2040

Technical Advice Notes

TAN 5 Nature Conservation and Planning (2009)

TAN 11 Noise (1997)

TAN 18 Transport (2007)

TAN 21 Waste (2017)

TAN 23 Economic Development (2014)

TAN 24 The Historic Environment (2017)

Mineral Technical Advice Note 1 (MTAN 1): Aggregates (2004)

Minerals Planning Guidance Note 11: The Control of Noise at Surface Mineral Workings (1993)

Minerals Planning Guidance Note 14: Review of mineral planning Permissions (1995)

Other material considerations

Regional Technical Statement Second Review (2020)

Statement of Sub-Regional Collaboration for North East Wales (2021)

Towards Zero Waste (June 2010)

Beyond Recycling (2021)

4. MAIN PLANNING CONSIDERATIONS:

In terms of general guidance on matters relevant to the consideration of a planning application, Section 9.1.2 of the Development Management Manual (DMM) confirms the requirement that planning applications 'must be determined in accordance with the approved or adopted development plan for the area, unless material considerations indicate otherwise'. It advises that material considerations must be relevant to the regulation of the development and use of land in the public interest, and fairly and reasonably relate to the development concerned.

The DMM further states that material considerations can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment (Section 9.4). The DMM has to be considered in conjunction with Planning Policy Wales, Edition 11 (February 2021) and other relevant legislation.

Denbighshire County Council declared a climate change and ecological emergency in July 2019. In October 2020 the Council approved an amendment of its Constitution so that all decisions of the Council now have regard to tackling climate and ecological change as well as having regard to the sustainable development principles and the well-being of future generations.

The Council aims to become a Net Carbon Zero Council and an Ecologically Positive Council by 31 March 2030. Its goal and priorities are set out in its Climate and Ecological Change Strategy 2021/22 to 2029/30. The actions, projects and priorities in the Strategy directly relate to council owned and controlled assets and services. One priority of the Strategy is to promote the existing policies within the Local Development Plan (LDP) 2006 to 2021 and Supplementary Planning Guidance (SPG) which contribute to environmentally responsible development. In preparing these reports to determine planning applications we therefore highlight the LDP 2006 to 2021 and appropriate SPG. Applications that are determined in accordance with the LDP 2006 to 2021 are environmentally responsible developments.

Planning applications are assessed in accordance with statutory requirements including The Environment (Wales) Act 2016, national policy (Future Wales, PPW 11) and local policy (LDP 2006 to 2021) and therefore they are assessed with regard to tackling climate and ecological change which is a material consideration.

Section 4 of the report refer to all statutory requirements, policies and material planning considerations which are considered to be of relevance to the proposal.

4.1 The main land use planning issues in relation to the application are considered to be:

- 4.1.1 Principle
- 4.1.2 Need for aggregate minerals
- 4.1.3 Loss of Agricultural Land
- 4.1.4 Landscape and Visual amenity including impact on trees
- 4.1.5 Residential Amenity and health risks; blasting, noise and dust/air quality
- 4.1.6 Ecology and Nature Conservation
- 4.1.7 Highways, traffic and transportation
- 4.1.8 Public rights of way and open space
- 4.1.9 Archaeology and Built/Cultural Heritage
- 4.1.10 Hydrology and Hydrogeology
- 4.1.11 Restoration, Aftercare and long-term management
- 4.1.12 Net Benefit for Biodiversity
- 4.1.13 Economic benefits
- 4.1.14 Community Benefit Fund
- 4.1.15 Environmental Assessment

4.2 In relation to the main planning considerations:

4.2.1 Principle

The principle of extracting limestone at this site has been established through the historical working of minerals at this site, and through planning permissions, first granted in 1948. Subsequent to 1948, planning permissions have been granted, as detailed above, accepting that mineral extraction at this site is an appropriate and established land use in this location. Furthermore, mineral extraction can only take place where the mineral is found to occur and there is known limestone resources in the application area.

The Site is located outside of the Development Boundary in the adopted Local Development Plan. The land is protected in the adopted Local Development Plan as a Mineral Safeguarding Area under Policy PSE 15 to prevent sterilisation of known mineral resource from non-mineral development.

Minerals are an essential part of the economy and enable the majority of other developments to occur. It is considered to be far more sustainable to work new consented reserves immediately adjacent to where there is existing plant and infrastructure/good transport links rather than to seek the disturbance of a greenfield site where multiple 'less optimal' solutions may be required. The quarry site is also located close to strategic and regional road networks.

Minerals Technical Advice Note 1: Aggregates (MTAN1) recognises that in dealing with applications for new mineral extraction, the plan-led system is best placed in determining the most suitable locations and that future extraction should only take place in the most environmentally acceptable locations.

PPW11 states that extensions to existing mineral working, whether they be extensions of time, or lateral or depth extensions should be considered in the same manner as applications for new sites. Each application will need to consider the impact on the site as a whole and the wider surroundings and will need to be considered on its own merits.

The planning application has been submitted with an accompanying Environmental Statement considering all the relevant and key material planning considerations as set out within the Council's Scoping Opinion issued on 14th August 2019 under reference 1/2019/0573 for the consideration of a planning application to extend Denbigh Quarry as proposed in this application. The material planning considerations associated with the application will be examined in the following section of this officer appraisal within this report.

PPW11 continues to state that the presence of an existing quarry should be a material consideration when considering a proposal for an extension. It is considered that there are benefits to extend the existing Denbigh Quarry, as opposed to developing a new greenfield site as there is existing in site infrastructure such as the concrete batching plant located at the site and operated by the applicant. Should planning permission be refused, essential raw materials required to produce concrete, and operate the plant would need to be imported to the site. Should planning permission be granted, the concrete batching plant would be supplied by the limestone won and worked from this quarry.

It is considered that the principle of winning and working limestone in this location is established and evidenced from the above.

4.2.2 Need for aggregate minerals

The provision of minerals, and meeting the needs of society are considered under Section 5.14 of PPW11 which recognises that:

"Society needs, and will continue to need for the foreseeable future, a wide range of minerals ... Construction related minerals and mineral products are particularly important in Wales and are essential for housing and infrastructure".

Minerals Technical Advice Note 1: Aggregates (MTAN1) states that it is essential to the economic and social well-being of the country that the construction industry is provided with an adequate supply of the materials it needs, but not to the unacceptable detriment of the environment or amenity.

Policy PSE 17 – 'Future mineral extraction' of the adopted Denbighshire Local Development Plan states that in criterion ii):

"Applications for the extraction of aggregate minerals will only be permitted where it is necessary to maintain stocks of permitted reserves having regard to the Regional Aggregate Working Party apportionment figures, or, where no figure exists, the demonstrated need of the industry concerned."

For the purpose of strategic minerals planning, the Regional Technical Statement Second Review (RTS 2) establishes a set of sub-regions in Wales that are based on a number of factors such as, type of mineral, supply patterns, minimal movement of aggregates or distinctive market areas. The RTS 2 projects future demand for aggregates so that mineral development can be planned for in a managed and proportionate way by Local Planning Authorities (LPAs) to provide a steady and sustainable supply of construction aggregates to meet the predicted need. The RTS 2 provides strategic recommendations to each LPA regarding their apportionments and indicates the likelihood of new allocations, which may need to be made in the next LDP, to meet the predicted future demand throughout the relevant plan period.

Denbighshire County Council endorsed the RTS 2 on 26th January 2021. With regards to the Denbighshire Local Authority area, the RTS 2 does not require Denbighshire to make any crushed rock allocations based on the permitted reserves and the apportionment figure calculated in the RTS 2.

The RTS 2, introduces the requirement for all LPAs in each sub-region to prepare a Statement of Sub-Regional Collaboration (SSRC) where individual local authority areas cannot meet their stated apportionment. The adoption of an SSRC would not only ensure that the overall sub-regional apportionments can be met, it also can be used as crucial evidence for demonstrating that the adopted, or forthcoming Local Development Plan will provide the objectively assessed need for minerals over the plan period. Furthermore, any Statement of Sub-Regional Collaboration is a material planning consideration in the determination of planning applications. The Counties of Denbighshire, Flintshire and Wrexham form the North East Wales sub-region.

Whilst the RTS2 states that Denbighshire, as a Local Authority Area would not need to provide any allocations for crushed rock due to the current landbank, the need for crushed rock mineral on a sub-regional scale, is demonstrated through the requirement in the RTS 2 for the North-East Wales sub-region to allocate an additional resource of 36 million tonnes.

A sub-regional collaboration agreement for the North-East Wales sub-region is now in place between Denbighshire, Wrexham and Flintshire. The North-East Wales Statement of Sub-Regional Collaboration (SSRC) states that;

“This SSRC confirms that the authorities of the North-East Wales sub-region have agreed that any shortfall of crushed rock would be considered as a sub-regional apportionment shortfall, and this shortfall would be met by either; extensions to existing crushed rock quarries in the sub-region, or a new crushed rock quarry site also within the sub-region. A new site promoted by a landowner or minerals operator provides far more certainty to delivering the sub-regional apportionment as opposed to a blanket ‘area of search’ or ‘preferred area’ approach proposed in an LDP.”

This document has been agreed and endorsed by all the Local Authorities in the sub-regional area. On 7th April 2021, the members of the Denbighshire County Council Strategic Planning Group endorsed the adoption of the SSRC. This was then followed by a delegated decision to adopt the SSRC made by the Lead Member for Planning, Public Protection and Safer Communities on 22nd April 2021.

As stated above, the sub-regional minimum allocation required to meet the projected provision is 36 million tonnes. Planning permission for a large lateral extension of Hendre Quarry in Flintshire has been granted. Furthermore, the allocations set out in the Flintshire Local Development Plan have now been adopted. With these allocations and planning permission to extend Hendre Quarry, there remains a short fall of a minimum requirement of 3 million tonnes for crushed rock over the plan period, on a sub-regional scale.

The proposed extension at Denbigh Quarry that would yield approximately 4.4 million tonnes, would therefore meet that sub-regional need for crushed rock aggregate as

set out in the adopted SSRC for the North-East Wales sub-region. It is considered therefore, that there is a demonstrable need and evidence base for this proposed extension at Denbigh Quarry. The evidence stated above with regards to the endorsed RTS 2 and the adopted SSRC provides the evidence of a demonstrable need for crushed rock on a sub-regional scale in North-East Wales. As such, it is considered that the proposal is in compliance with the provisions of PPW11, MTAN1, Policy PSE17 of the adopted Denbighshire LDP.

Due to its location, it is considered that Denbigh Quarry has a key strategic role in limestone product supply. With regards to the later part of Policy PSE17, criterion ii), the applicant has provided evidence that there is a local need to supply local markets of crushed rock for construction and also for the application of agricultural lime. Markets will be further explored in the economic benefits section of the report.

4.2.3 Loss of Agricultural Land

Planning Policy Wales (PPW 11) Section 3.58 and 3.59 obliges weight to be given to protecting land of grades 1, 2, and 3a quality in the Agricultural Land Classification (ALC). PPW 11 notes this land is considered to be the best and most versatile and justifies conservation as a finite resource for the future. It indicates that land of this quality should only be developed if there is an overriding need for the development, and either previously developed land or land of a lower grade is available, or available lower grade land has an environmental value recognised by a landscape, wildlife, historic or archaeological designation which outweighs the agricultural considerations.

An Agricultural Land Classification (ALC) report has been prepared to support the application. The report found the application area to be 1.5 hectares ALC Grade 2, 2.5 hectares Subgrade 3a and 1.0 hectares 'Non-Agricultural' land – a total of 5.0 hectares surveyed which comprises the extension area only. The ALC survey was carried out and undertaken in accordance with the *'Revised Guidelines and Criteria for Grading the Quality of Agricultural Land'* (MAFF 1988) and the Welsh Government Soil Policy and Agricultural Land Use planning unit have confirmed that this can be accepted as an accurate reflection of the land quality on the site. This confirms that the proposed extension application site, if approved, would involve the loss of 4.0 hectares of Best and Most Versatile (BMV) agricultural land (ALC grade 2 and 3a).

The submitted consolidation restoration plans for the entire quarry site identifies the proposed after-use to be amenity/nature conservation (creation of priority habitat – Calcareous Grassland and new woodland planting) and not agricultural. This is mainly due to the lack of suitable soils on site. The lack of soils would not give certainty that the quality of restored land would be capable of supporting an agricultural after-use.

Having considered this proposal in light of the PPW11 with regards to the provision for the protection of BMV agricultural land and Schedule 5 of the 1990 Act; and, MTAN1 Aggregates (Annex D), the Welsh Government Soil Policy and Agricultural Land Use Planning Unit does not object to this application.

Although the application would involve the permanent loss of 4 hectares of BMV agricultural land, in this case, considerable weight has been given to the protection of BMV agricultural land as per PPW paragraphs 3.58 and 3.59.

It has been concluded that the site search sequence and overriding need for the development has been established with regards to the demonstrable need for crushed aggregate in the sub-region which has been clearly set out above.

Furthermore, as mineral extraction can only take place where the mineral occurs, the sequential tests of considering a site which is previously developed land or land in lower agricultural grades to carry out this development is not applicable.

The Welsh Government Soil Policy and Agricultural Land Use Planning Unit does not object to this application and considers that an agricultural after use is not likely to be appropriate because of:-

- a) the lack of suitable soils available on site does not give certainty that the quality of restored land would be capable of supporting an agricultural after-use (MTAN 1 para 133).
- b) Insufficient material available to restore the land to reasonable contours in relation to the surrounding ground for an agricultural after use.

Whilst the proposal would involve the loss of 4 hectares of BMV agricultural land, it is considered that there is a demonstrable need for the crushed rock aggregate on a sub-regional scale as demonstrated by the sub-regional collaboration agreement, which would outweigh the loss of the BMV agricultural land, and therefore it is considered that the proposal would accord with the provisions of PPW11.

4.2.4 Landscape and Visual amenity including impact on trees

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment; and the effects of a development on, for example, health, public safety and crime. The visual amenity and landscape impacts of development should therefore be regarded as a potential material consideration.

PPW 11 Section 6.3.3 states '*All the landscapes of Wales are valued for their intrinsic contribution to a sense of place, and local authorities should protect and enhance their special characteristics, whilst paying due regard to the social, economic, environmental and cultural benefits they provide, and to their role in creating valued places.*'

Denbigh Quarry lies adjacent to, but outside of the Development Boundary. The site also lies along the western edge of the Vale of Clwyd, adjacent to the town of Denbigh, and some 5km to the west of the boundary of the Clwydian Range and Dee Valley Area of Outstanding Natural Beauty (AONB). In terms of nationally significant landscapes NRW have agreed that due to the distance of the quarry boundary and Clwydian Range and Dee Valley AONB the proposed quarrying workings would not be expected to visually harm views from the AONB.

The Landscape and Visual Impact Assessment (LVIA) which accompanied the application has been carried out in accordance with the industry's guidelines (GLVIA 3rd Edition) and examines the anticipated effect on the landscape and visual amenity of proposed development.

It is considered that the assessment of viewpoints contained within the LVIA have been undertaken objectively. It is considered that the degree of adverse change would be reduced or mitigated by the proposed bund which would be constructed along the western boundary and screen planting proposed. A condition would be required to submit a detailed Landscape and Ecological Habitats and Aftercare Management Plan (LEMP) for each phase of the development.

The LVIA concludes that, due to the mitigation design, the impact of the operational phase of the Proposed Development upon landscape and visual receptors would be minimised and mitigated by planting, and no 'Significant' effects are predicted.

Given the distance from the designated landscape, the proposed quarry workings are not expected to visually harm views from the AONB. It is noted that the Landscape and Visual Impact Assessment (LVIA) that was submitted with the planning application that this has assessed one AONB view VP16 from Offa's Dyke path at Penycloddiau. NRW and the Council's Landscape advisor concurs that there would be a very low to no magnitude of visual change, resulting in a minor adverse effect during the operational phase, becoming neutral by year 15 (the point at which mitigation planting is expected to have matured and fulfil its intended purpose).

Impacts On Trees and Woodland

With respects to the impact of the development on trees and woodland, the extension site is situated to the south of Crest Mawr Wood, designated a Site of Special Scientific Interest (SSSI) and Ancient Woodland. The woodland compartment nearest to the proposed quarry extension area is classed as Restored Ancient Woodland. The proposed quarry extension area would not impact directly on any of these designated woodlands.

The unnamed woodland to the southeast of the proposed extension, outside of the proposed extension area is bisected by the existing quarry boundary. The southern part of this unnamed woodland, on the lower slopes and outside the quarry boundary, is subject to Tree Preservation Order Borough of Denbigh TPO 9 (W9). Parts of the woodland are also classed as Ancient Semi Natural Woodland or Plantation on Ancient Woodland. Residents have expressed concerns that the proposed extension would result in the loss of trees protected by Tree Preservation Orders. The proposed quarry extension area would not impact directly on any of these designated woodlands. The proposed extension would not result in the loss of any trees that are protected by Tree Preservation Orders.

The application states that advanced tree planting would be undertaken along the southern application boundary to allow for a period of maturation. However, to obtain material to create the proposed bund on the western boundary where tree planting is proposed, first, it would be initially necessary to remove the overburden within the extension area.

Phase 1 of the proposed development would also include the removal trees on the existing screening bund. Existing screening and planting on the bund has the appearance of a dense, wide and over height hedge and has been planted to act as screen between the existing quarry and the parallel public right of way (proposed to be diverted). The existing bund vegetation comprises of a varied mix of broadleaved tree and shrub species that performs effective screening but is considered to be of limited arboricultural merit.

Should planning permission be granted a Landscape and Ecological Habitats and Aftercare Management Plan (LEMP) would be required to be submitted prior to commencement of development of each phase. The LEMP shall include details of timings, of bund removal, and details of their placement, details of timings of the removal of the existing overburden in the extraction area, details of the bund's design, extent and timing of construction in relation to the proposed development should be required by condition to be submitted, prior to the commencement of development of each phase. Further consideration of the need for complete removal of vegetation in each phase and if some vegetation can be remain to act as screening.

On balance within the context of the rural landscape, where there are other scattered trees and additionally woodlands, the quarry extension would result in the loss of relatively few field trees.

Ash dieback is endemic in the landscape surrounding the proposed quarry extension area however the disease's effect on reducing screening would be considered to be negligible because common ash is a minor component species.

In conclusion with regards to landscape and arboricultural matters, the impact of the quarry extension on the landscape, and more specifically on trees and woodlands, has been minimised by firstly limiting the quarry extension area to the higher grazing land and secondly proposing a bund and tree planting to provide visual screening. These factors have reduced the anticipated impacts to an acceptable level and therefore there are no objections to the application from the Council's landscape/tree officer and there are no objections on landscape grounds from NRW.

Notwithstanding details for the bund and planting lack detail and these should be provided prior to the commencement of development in each phase as the proposal is heavily reliant on these elements to screen views from Denbigh and from the proposed diverted footpath.

If permission is granted these details could be secured by a planning condition requiring the submission of a Landscape and Ecological Habitats and Aftercare Management Plan for each phase. The details should not only include a landscape maintenance scheme but monitoring and reporting back to the Local Authority on an annual basis. NRW and the Council's Landscape and tree specialist do not object to the proposals. As such, it is considered that the proposal would accord with PPW11 and Denbighshire's Supplementary Planning Guidance Note on Trees and Landscaping.

4.2.5 Residential Amenity and Health Risks; blasting, noise and dust

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment; and the effects of a development on, for example, health, public safety and crime. The residential amenity impacts of development should therefore be regarded as a potential material consideration.

Blasting

The method of working the proposed quarry extension and the extraction of limestone at the application would involve a method of extraction which is referred to as blasting which involves the use of explosive to blast the material out of the quarry face. This is commonly used and is the current method of extraction at the site.

Residents have raised objections to the application including the effect of blasting on neighbouring properties. Some local residents believe blasting at the quarry is causing structural damage to the surrounding properties and have raised concerns with regards to the structural safety of these properties. There are also concerns that no blast monitoring data has been made available as part of the current application.

National Planning Policy for aggregates is set out in MTAN 1 and contains recommendations on blast limits. This recommends a blast limit of 6 millimetres per second peak particle velocity (ppv). Should planning permission be granted, this limit of 6mm/s ppv would be retained to control the level of blast vibration at the quarry through the imposition of a condition as currently is applied on the existing planning permission.

The quarry blast generally once every 5-6 weeks. Every blast undertaken at the quarry is monitored by the contracted company who design, and then carry out the blast. The monitoring data confirms that in all instances, the recorded ground vibration recorded at properties including those at Bryn Seion and/or Accar-y-Forwyn located to the south of the quarry have been below the conditional limit of 6 mm/s ppv at a 95% confidence limit. North Wales Minerals and Waste Planning Service has undertaken their own blast monitoring which corroborates that the blasts at the quarry have been within the current limits.

The current conditional limit as set out in Condition No. 27 of the extant permission requires the blast design, when calculated with a 95% confidence limit, shall be such that vibration levels arising from the blast shall not exceed a Peak Particle Velocity of 6 millimetres per second in any plane, as measured at the nearest residential or other vibration sensitive property affected by vibration from blasting at the Site. Should planning permission be granted, this conditional limit of 6 mm/s ppv would be imposed as this is in line with recommendations set at a national level within MTAN1, and also accords with the provisions of Policy PSE17 of the adopted Denbighshire Local Development Plan which requires suitable blast controls to be implemented.

The effect of blasting at the quarry is often felt by local residents. The blast event can cause ground vibration and can also cause vibration of the air which is known as 'air overpressure'. Whilst all blasting operations undertaken by the applicant's blasting contractor would be designed to minimise ground and air overpressure, so far as is reasonably practicable, there are a number of factors outside of the control of the quarry which mean that predicting air overpressure levels are very difficult. As air overpressure is transmitted through the atmosphere, weather conditions such as wind speed and direction, cloud cover and humidity will all affect the intensity of the impact. Due to this unpredictability, planning conditions to control air overpressure are not considered to be enforceable.

However, the results from monitoring undertaken by the quarry over the past 12 months over 9 blasting events demonstrates that air overpressure at sensitive receptors has been an average of 117 dB. On four occasions, air overpressure has been measured at 125 dB and 126 dB. The British Standard 6472 "*Guide to evaluation of human exposure to vibration in buildings*" indicates that air overpressure from blasting at the quarry is likely to cause complaint when over 120 dB. Whilst an air over pressure of over 120 dB is likely to cause complaint, air overpressure can cause physical damage to properties at high level, this is typically at levels between 140 dB and 150 dB which is well above what is experienced at neighbouring properties at Graig/Denbigh Quarry. As such, there is no evidence to suggest that blasting at Denbigh Quarry would cause damage to properties as a result of air overpressure.

Another effect that is felt as a consequence of blasting at quarries is ground vibration which is the effect of the energy released from the blast travelling through the ground. MTAN1 draws upon advice set out in British Standard 7385 Part 2, 1993 Evaluation and Measurement for Vibration in Buildings entitled "*Guide to Damage Levels from Ground Borne Vibration in Buildings*". The guidance sets out vibration limits to preclude the onset of damage to the types of structures encountered around quarries, including residential properties. It recognises that there is a major difference between the relatively low levels of vibration that are perceptible to people, and the far greater levels at which the onset of damage is possible.

The guidance sets out the lowest vibration levels above which damage has been credibly demonstrated. Cosmetic damage, or hairline cracks in plaster or mortar joints, should not occur at vibration levels lower than 20mm/s ppv at a frequency of 15Hz and lower than 50mm/s ppv at 40Hz and above. This is significantly higher compared to the 6mm/s ppv limit which is set at Graig/Denbigh Quarry. Furthermore, from the past 12 month period there have been a total of 9 blasts. The monitoring results provided to the North Wales Minerals and Waste Planning Service measured at a number of different monitoring locations have been an average of 2.275 mm/s ppv, the lowest being 0.6 mm/s ppv, and the highest 5.3 mm/s ppv. Some blast events did not trigger the monitoring machine which meant that the ground vibration was below the threshold to activate the ground vibration monitor.

Further research has been undertaken by the United States Bureau of Mines which concluded that no damage to buildings has occurred in any of the published data at vibration levels less than 12.7 mm/s ppv. This is significantly higher than the ground vibrations levels recorded from the blasting at Denbigh Quarry.

In addition to local residential properties raising concerns with regards to vibration, a neighbouring business located on the Colomendy Industrial Estate has also raised concerns with regards to the application and the effect of blasting on their business and their equipment. The company states that when blasting occurs, shockwaves, which vary in magnitude are felt throughout their facility which cause ongoing disruption to their day-to-day operations. However, as stated above, over the past 12 months, the quarry has only blasted 9 times ever 1 to 2 months and therefore would not cause daily disturbance to their operations. Furthermore, given the weight of the explosive typically used in the blasting event, taking into account its distance from the neighbouring business that has raised concerns, the predicted vibration would be well below the limit stated in MTAN1. The proposed extension area is twice the distance away from the current working area compared to this local business, therefore the levels of vibration should be lower than those currently and previously experienced.

To put the blasting data into perspective, by comparing this with everyday events which produce vibration; measurements taken at 1m from someone walking on a wooden floor gives a max ppv of 2.3mm/s ppv, a door slamming measured at 1m away on wooden floors gives a ppv of 5.3mm/s ppv and a foot stamp on a wooden floor measured at 1m away gives a ppv of 52.7mm/s and when measured at 6m away it diminishes to 5.6mm/s ppv.

The quarry company continually seeks to minimise blast vibration and air overpressure through blast design, and there is no evidence to prove that a continued ppv levels of 6 mm/s can cause damage to properties. The approved Blasting Protocol includes information such as pre-blasting notification, a complaints procedure, the frequency of blasting, information regarding warning sirens and other blasting related matters.

Condition No. 30 of the extant planning permission restricts the number of blast limits to 12 individual blasts per year. Members of the Denbigh Member Area Group have expressed concerns that in their opinion, this condition does not sufficiently control the number of blasts that would be permitted per month. For example, conditionally there is nothing preventing all 12 blasts occurring in one month. However, in practical terms, the number of blast events per month is restricted by the availability of working area on the quarry floor to process the won mineral. Notwithstanding this, the applicant has confirmed in order to provide reassurance to the Denbigh members and the local community, that they would accept a condition restricting the number of blasts per month as follows:

*“Unless otherwise agreed in writing with the Mineral Planning Authority, and except in the case of emergency, there shall be no more than **three** blasts in any one calendar month for the initial 12 months of the commencement development. After this time, there shall be no more than **two** blasts in any one calendar month, up to a maximum of 12 blasts in any 12-month period, throughout the life of the development”*

It is considered that the condition as drafted above would be reasonable and pass the tests of Circular WGC 016/2014. The quarry operator may require the flexibility in the first 12 months of developing the extension area to be able to blast more frequently as they may require two or three smaller blasts to initiate the ground preparation works to break ground and to progress into Phase 1. This wording would provide flexibility and therefore would be considered reasonable, whilst remaining precise and provide that certainty to residents and members on the frequency of blasting.

In any event, the approved blasting protocol requires pre-blasting notification to take place and therefore the number of blast events can be monitored accordingly. The North Wales Minerals and Waste Planning Service periodically monitor the blasts with their own calibrated vibrograph.

It is appreciated that blasting and the monitoring of blasting, measuring ground and air vibration is highly technical and scientific which may not be easily understood by members of the public. Therefore, efforts have been made to raise awareness of the implications of blasting in the area so that this matter could be fully understood. The applicant hosted a blasting presentation which was delivered by their blasting contractor on 18th November 2021. The applicant has confirmed that they are committed to arrange another awareness raising event with the intention to provide less technical information. It is intended to be a more practical event to discuss what happens during a blast and what this means for the local community and so that they can communicate how they feel during and after a blast event.

Whilst it is understood that the effect to on blasting is felt by the local community, there is no evidence to suggest that the current blasting results in damage to properties and measured ground vibration from the quarry has been consistently measured well below the conditional limit of 6mm/second PPV. Should planning permission be granted the condition blast management and monitoring conditions would be impose with a limit of 6mm/s ppv in line with current guidance. It is considered that therefore the operations would comply with MTAN1 and PSE17 of the adopted Denbighshire Unitary Development Plan.

Noise

The proposed extension of the quarry, quarry operations and proposed restoration has the potential to give rise to noise being generated by quarry operations. Residents have raised concerns in relation to increased noise that would be emitted from the quarry. No noise complaints have been received in association with the existing quarrying operations (other than noise generated from blasting) by the Local Authority, the North Wales Minerals and Waste Planning Service, or the quarry.

A noise and vibration assessment was carried out as part of the Environmental Statement, with an updated assessment undertaken during the course of consideration of this application. Consultation was undertaken with an external environmental consultancy, Enzygo, who undertook a critical appraisal of the both the original and updated noise and vibration assessment.

The updated assessment concluded that the noise contribution from the proposed quarry extension would not increase at the nearest noise at sensitive properties. The proposed extension would not bring the development closer to the nearest sensitive property, and it would not change the way in which the quarry operates. The noise assessments have been considered against national planning policy guidance set out in MTAN1: Aggregates, TAN11: Noise, and the relevant British Standards. The assessment shows that the development could proceed in accordance with the noise limits which are already imposed on the existing planning permission. Should planning permission be granted, the same condition limiting noise would be imposed, along with other conditions requiring best practical means to be employed at all times to minimise the missions of noise to ensure that residential amenity is protected, and noise is controlled. To ensure that noise limits are adhered to, a condition would be imposed to require the submission of a noise management and monitoring scheme in order to ensure that the Site is being operated within the conditioned noise limits.

Dust/Air Quality

The proposed extension of the quarry, quarry operations and proposed restoration has the potential to give rise to dust emissions being generated by quarry operations. An air quality assessment was carried out as part of the Environmental Statement, which accompanied the application. An updated dust assessment was also undertaken during the course of consideration of this application. Consultation was undertaken with an external environmental consultancy, Enzygo Limited, who undertook a critical appraisal of both the original and updated air quality assessment to advise the Local Planning Authority on the application.

Residents have raised concerns in relation to increased dust that would be emitted from the quarry. A neighbouring business located on the Colomendy Industrial Estate has also raised concerns with regards to the quarry activities affecting their equipment. Residents have also stated in their representations that the quarry should not be permitted as the site is too close to the town of Denbigh. For clarity, the nearest residential property is located over 250 metres from the proposed extended quarry boundary and therefore outside the recommended buffer-zone for hard rock quarries of 200 metres as stated within MTAN 1. The proposed extension would not result in the quarry boundary, or operations being nearer to residential properties.

The assessment has considered the most sensitive residential and ecological receptors in the area for activities on the proposed extension area. It also considered a further receptor within 400 metres of all dust generating activities including those businesses located on the neighbouring Colomendy Industrial Estate (over and above that of the recommended 200 metres as set in MTAN1). The dust assessment also considered impacts at all receptors to be negligible and overall impacts not significant. Human health impacts from the particulate emissions were screened out of the assessments correctly as these impacts were considered to be negligible due to the low background PM₁₀ concentrations. However, as part of the updated dust assessment, further information has been provided on site boundary PM₁₀ and PM_{2.5} monitoring. The results provide further evidence that current health-based air quality objectives are achieved in the vicinity of the site. However, given the nature of the activities and proposed more stringent PM_{2.5} targets, it is recommended that monitoring is continued periodically this would be required by condition.

The impacts from road traffic emissions were also screened out of the assessment due to the negligible impact. The environmental consultant employed to assist Denbighshire County Council to critically assess the assessment on dust impacts agrees with these conclusions. In summary, subject to sufficient and agreed mitigation measures being implemented, it is agreed that emission magnitudes specified can be achieved.

Existing dust management and mitigation at the quarry includes the use of a dust suppression bowser which is employed if there is a need to control dust such as in dry weather conditions, the use of a road sweeper three days a week and as required to further ensure that mud and debris is not tracked on to the highway. Furthermore, a wheel-wash facility is also located on site where all heavy goods vehicles are required to use prior to entering the public highway. Notwithstanding this, the site is being worked using mobile plant, including a crusher. The approved dust scheme relates to the working of the site using fixed plant and therefore is not considered relevant. Should planning permission be granted, a condition would be imposed to require the submission of an updated dust management and mitigation scheme. Speed limits are also enforced on site. There is a sheeting bay located on the quarry access road that allows all loaded haulage vehicles to sheet the load before leaving the Site. This would continue to be used should planning permission be granted. The method of working proposed in this application would be no different to the current operations on site. No complaints have been received by the Local Authority, the North Wales Minerals and Waste Planning Service, or the Quarry in regard to dust generated by any of the current operations at the quarry.

Concerns have also been raised in relation to health impacts from an increased exposure to radon gas emissions as a result of the development and the extraction. Environmental Public Health Service Wales have not raised this as an area of concern in association with quarrying. Concerns have also been raised by residents in relation to the nature of the waste and potential odours and vermin that could arise. The material proposed to be imported would be inert material and therefore would not give rise to malodours or increased vermin to the site.

The Environmental Public Health Service Wales have responded to the application and have stated in their response that they recommend that the Minerals Planning

Authority, as the regulator confirm if the mitigation measures proposed in the application with regards to impact on local air quality and noise controls proposed are satisfactory. The proposed extension area would not be any closer to residential properties. The methodology and conclusions of the revised dust impact assessment are accepted. However, this is subject to the implementation of best practice dust control measures throughout the site and with a particular focus on blasting operations. These measures should be provided by means of planning condition requiring an agreed dust management plan and monitoring strategy.

In addition to the proposed mitigation measures the quarry have agreed to reduce their annual output limit from 500,000 tonnes per annum as currently restricted by Condition No. 4 to 400,000 tonnes per annum which is a 20% reduction on annual tonnage allowance. This would be conditioned.

It is considered that the proposed extension application would not materially affect the noise and dust output of the quarry operations as they would be mitigated by noise and dust monitoring and management. The application has demonstrated that the operations could take place without causing unacceptable impacts on the environment or human health. Should planning permission be granted, the noise limits and dust control conditions can be included on any new permission with the additional requirements for a scheme of dust mitigation, and noise management and monitoring conditions. As such, it is considered that the proposal accords with the provisions of TAN1, and Policies PSE 16 and PSE 17 of the adopted Denbighshire Local Development Plan.

Concerns have been raised by residents in relation to the safety of the boundary of the quarry site. The Health and Safety Executive regulate quarry sites and operators have to carry out their operations in accordance with the Mines Regulations 2014 and the Quarries Regulations 1999 which constitute the primary legislation governing health and safety in mining operations.

4.2.6 Ecology and Nature Conservation

Policy VOE 5 requires due assessment of potential impacts on protected species or designated sites of nature conservation, including mitigation proposals, and suggests that permission should not be granted where proposals are likely to cause significant harm to such interests. This reflects policy and guidance in Planning Policy Wales (Section 6.4), current legislation and SPG 18 – Nature Conservation and Species Protection, which stress the importance of the planning system in meeting biodiversity objectives through promoting approaches to development which create new opportunities to enhance biodiversity, prevent biodiversity losses, or compensate for losses where damage is unavoidable.

Planning Policy Wales (PPW 11) sets out in Chapter 6 that “*planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means that development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity*” (Section 6.4.5). PPW also draws attention to the contents of Section 6 of the Environment (Wales) Act 2016, which sets a duty on Local Planning Authorities to demonstrate they have taken all reasonable steps to maintain and enhance biodiversity in the exercise of their functions. It is important that biodiversity and resilience considerations are taken into account at an early stage when considering development proposals (Section 6.4.4).

In autumn 2019 a Chief Planning Officer letter provided guidance on the application of the Environment (Wales) Act Section 6 duty with regard to securing biodiversity enhancement which stated that if this could not be achieved, permission for the development should be refused. Furthermore, within a letter dated 11 October 2023, Welsh Government more recently reasserted this position to all Chief Planning Officers to pre-empt the publication of PPW12 with an updated chapter 6 to be

implemented with 'immediate effect'. The current Policy guidance with regard to Net Benefit for Biodiversity in relation to this proposal is examined later in the report under paragraph 4.2.12.

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment; and the effects of a development on, for example, health, public safety and crime. The ecological impacts of development should therefore be regarded as a potential material consideration.

Protected Species

Given the presence of protected species (great crested newt), the works can only be carried out under a European Protected Species (EPS) License which would be issued by NRW prior to development commencing in the proposed extension area. In considering the grant of planning permission the LPA must consider whether the disturbance of the protected species is required for the purpose of *"preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance of the environment."*

With respect to bats, there are no evidence of roosting bats was recorded on site. NRW and the Council's Ecology concur with the conclusions of the report with regards to proposed avoidance measures and mitigation for bats. With respects to Hazel Dormouse, there are no concerns raised with regards to this European Protected Species. NRW are satisfied that concerns with regards to the protection of European Protected Species (great crested newt) can be overcome by the inclusion of a planning condition should planning permission be granted. With respects to other European protected species, NRW have no concern with regards to bats or Hazel Dormouse.

The proposed restoration and extended aftercare (secured under the EPS licence) proposed would secure the longer-term future of the habitat. It is noted that adequate mitigation methods have been proposed and no objections to these have been raised by the County Ecologist or NRW. It is therefore considered that the proposed development, should it be granted, is not likely to be detrimental to the maintenance of the favourable conservation of the local population of great crested newts provided any subsequent consent is subject planning conditions as below. Given the advice from the County Ecologist and NRW, it is considered the proposal meets the '3 tests'.

The requirement for the inclusion of a lighting condition, the submission of a scheme of reasonable avoidance measures for peregrine falcon, invasive non-native species and phased restoration for nature conservation purposes is considered reasonable, necessary and related to planning. A note to applicant stressing the requirement to obtain an EPS Licence is proposed in relation to great crested newt. However, the applicant is already in discussion with NRW with regards to the application for an EPS licence and is aware of their obligations with regards to protected species.

Protected sites

Concerns have been raised by local residents that the proposal would have a detrimental and negative environmental impact on Crest Mawr Wood and Graig Quarry Sites of Special Scientific Interest (SSSI) and its species from vibration, noise, dust, human activity and industrial machines, and a negative impact on nature conservation due to the loss of habitat.

NRW and the Council's Ecologist have considered the information submitted in support of the above application and the Environmental Statement. Based on the information submitted, it is considered that the proposed development is not likely to damage the special interesting features of Crest Mawr Wood and Graig Quarry SSSI.

The Environmental Statement has identified a need for good practice site design and dust control measures during operation, tree planting and creation of bunds along the site boundary to provide screening. NRW and the County Ecologist concur with this assessment. Measures should be in place to prevent dust soiling within the SSSI boundaries. Any tree planting should be of locally native species, details of which would be included as a requirement of the Landscape Environmental Management Plan (LEMP) that would be required by conditions. NRW have concluded that the proposed development would not likely damage the features of the adjacent Crest Mawr Wood or Graig Quarry Sites of Special Scientific Interest (SSSI).

Concerns have been raised by local residents and by the North Wales Wildlife Trust due to the length of time between surveying and the determination of this application resulting in out-of-date surveys. However, prior to the commencement of development (including soil stripping, ground works, vegetation clearance) in each phase, a condition would require the operator to submit updated ecological surveys to the Mineral Planning Authority for written approval.

NRW and the Council's Ecologist have not raised any objections with respects to the proposal and its impact on the adjacent designated sites, protected species (subject to conditions), as such, it is considered that the proposal accords with PPW11, Welsh Government Letter dated 11th October 2023 updating Chapter 6 of PPW, VOE 1 and VOE 5 of the adopted Denbighshire Local Development Plan.

4.2.7 Highways, traffic and transportation

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment; and the effects of a development on, for example, health, public safety and crime. The highway impacts of development should therefore be regarded as a potential material consideration.

The applicant has confirmed that the additional reserve of circa 4.4 million tonnes is to be exported in HGVs via the existing haul road and utilisation of the existing access to the A525/A543 roundabout through the Colomendy Industrial Estate. The continuation of exportation will be below the current output limit of 500,000 tonnes per annum. Furthermore, the applicant has confirmed that they would be happy to further reduce this annual output limit of 400,000 tonnes per annum which would be conditioned. The restoration material would be imported to the site, but this would be restricted to 100,000 tonnes per annum and therefore this would not represent any increase in vehicular traffic on the highway network over and above what has already been deemed acceptable in planning terms when previous applications had been considered for the exportation of mineral from the site.

As a result, there would be no significant change in terms of vehicular activity associated with the quarry when compared with the current and ongoing situation. The proposals put forward represent a continuation of current activities as the proposed hours of operation, method of transport, main site access and types of vehicle used would not materially change. Whilst local residents have raised concerns that the quarry extension would impact on the local highway network and its capacity to accommodate quarry vehicles, Denbighshire's Highways Officer does not object to the application. It is considered that there would be no significant changes in terms of vehicular activity associated with the quarry when compared with current and ongoing operations. As such, it is considered that the proposal accords with the provisions of Policies RD1 and PSE17 of the adopted Denbighshire Local Development Plan.

4.2.8 Public rights of way and open space

Policy PSE17 provides a criteria-based policy for future mineral extraction. It states in subsection iv) c. that applications that accord with the other provisions of Policy PSE17 will be permitted provided *“final reinstatement of public rights of waste should be close to their original alignment with intermediate reinstatement where possible”*.

Residents have objected to the proposal as this proposal would result in the loss of the public right of way. Should planning permission be granted, the proposed lateral western extension would result in the need to permanently divert public footpath 508/6 (also known as Public Path 6 Denbigh). It would not be possible to reinstate footpath 508/6 on its original line due to the proposed quarry restoration in this location not being restored to its original level. However, the applicant proposes to divert the public right of way to a route which would have the effect of doubling the length of the right of way. The proposed diversion route would not create a more arduous or steep route. The proposed route would not be inferior to the existing path in relation to surface and views. Furthermore, the outlook from the proposed route offers additional viewpoints towards Denbigh Castle which are not visible from the existing line of the definitive public right of way route. The proposed diversion would continue to provide a link to Crest Mawr Wood SSSI and the proposal would not result in preventing the public from accessing the woodland.

The proposed route could also provide a potential opportunity to be improved/ upgraded in terms of improved access on the popular path that leads to Crest Mawr Wood. Subject to the planning permission being granted for the Western Extension, the applicant has agreed to provide a permeable all-weather surface to delineate the public right of way to the south and west of the quarry with maintenance being carried out for the period of time up to the end of the aftercare period. The applicant would also be seeking to provide two benches along the route that would be gifted to Denbigh Town Council. This would make the public footpath more attractive to a wider range of path users and improve access to the countryside to the less able and users with restricted mobility. These footpath improvements offered on the wider footpath network surrounding the quarry would offer opportunities for those less able to walk to enjoy the countryside, improve their health and well-being and this would contribute to the goals set out in the Well-Being and Future Generations (Wales) Act 2015. This is considered to be offering planning gain as a result of the proposed extension. Should planning permission be granted, a condition would be included to require a scheme of footpath improvements to be approved in writing.

In addition to the footpath improvements outlined above, the landowner has agreed to provide a permissive route to the north of the quarry, outside of the application boundary to increase footpath connectivity to the east of the application site and to link with Public Path 11, and across to the A525 linking to Crest Mawr Wood. This would create a circular route around the Quarry and Colomendy avoiding the road passing the quarry entrance. As this is land outside of the application boundary, and outside the control of the applicant the delivery of this permissive route will be achieved outside of the planning process.

Objections raised by members of the community include the applications resulting in the loss of open space. For the avoidance of doubt, the application site is not designated as 'open space' in land use planning terms.

4.2.9 Archaeology and Built/Cultural Heritage

Local Development Plan Policy VOE1 seeks to protect sites of built heritage from development which would adversely affect them and requires that development proposals should maintain and wherever possible enhance them for their characteristics, local distinctiveness and value to local communities.

Planning Policy Wales (PPW 11), Section 6 'Distinctive and Natural Places' recognises the need to conserve archaeological remains. The consideration of archaeological remains and their setting is a material planning consideration in determining planning applications, whether those remains are a scheduled monument or not.

Section 4 of TAN 24 - The Historic Environment sets out similar considerations to be given by a Local Planning Authority to the determination of applications involving archaeological remains, and their settings. It outlines different scenarios obliging consideration of impacts and stresses the need for submissions to include relevant surveys, studies and assessments, and mitigation proposals.

With regards to the built heritage, the application includes a specialist Heritage Statement which assesses the effect on cultural assets within the town and has considered the impact of the proposed development on the designated historic assets, following the guidance given in the Welsh Government documents "*The Setting of Historic Assets in Wales*" and "*Guide to Good Practice on using the Register of Landscapes of Historic Interest in Wales in the Planning and Development Process*". This work has concluded that initially the proposed development will have a very slightly but not significant impact on the settings of scheduled monuments DE005 St Hilary's Chapel Tower and DE156 Denbigh Castle and Medieval Town, but once mitigation measures, the construction of an earthen bund and the planting of trees, are in place, this will become neutral. However, the proposed development will have a moderate impact on the registered historic landscape but this would not be a significant effect. Cadw concur with these conclusions and have not objected to the proposal.

With regards to archaeology, The Clwyd-Powys Archaeological Trust (CPAT) have been involved at the pre-application stage in the development of this project and provided advice on the necessary archaeological surveys (Desk Based Assessment and Geophysics) to be completed in advance.

CPAT agree with the findings of the Heritage Statement and a condition for an archaeological scheme of investigation comprising a strip/map/excavate methodology for the extraction extension area is recommended in accordance with TAN 24 (May 2017) and PPW11. The archaeological fieldwork would need to be completed before any extraction can commence however, this can be done in stages/phases to allow early winning of minerals from areas which are deemed clear of archaeology.

A condition should be attached to any permission to secure preservation by a record of all archaeological remains which may be impacted by the development, in particularly the western extension area. A scheme of archaeological investigation using a strip/map/excavate methodology should be a condition of consent. The applicant should engage an archaeological contractor to complete this work, and a written scheme of investigation (WSI) would need to be approved before the archaeological works commence this should also be conditioned.

With the proposed condition, it is considered that with regards to archaeology and built heritage, the proposal would accord with the provisions of PPW11, TAN24 and Policies VOE1 of the Denbighshire Local Development Plan.

4.2.10 Hydrology and Hydrogeology

Local Development Plan Policy RD 1 test (xi) requires that development satisfies physical or natural environmental considerations relating to drainage and liability to flooding.

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned,

and can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment; and the effects of a development on, for example, health, public safety and crime. Drainage and liability to flooding should therefore be regarded as potential material considerations.

The Environmental Statement has addressed concerns with respects to hydrology and hydrogeology. Concerns have been raised by local residents in relation to the impact of the quarry on the water environment. With regards to the impact of the proposal on the adjacent Crest Mawr and Graig Wood SSSI, neither of the two SSSI's holds groundwater dependant features, therefore it is unlikely for the site to be impacted by hydrological pathways.

Although the Proposed Development would not exceed the maximum working depth observed within the Existing Site, the lowest sinking (presently inundated with water and forming the existing quarry sump) would be extended westwards, this would be facilitated by dewatering, allowing a safe and efficient working environment to be maintained. The Proposed Development would make no alteration to water management practices within the Plant Area. The extended Quarry Area would continue to form a closed depression within which all incident rainfall / runoff would be captured/contained, with all waters being routed overland to the quarry sump.

NRW note that the applicant has considered their concerns raised at the pre-application stage and the Environmental Statement submitted with this application addresses some issues raised, and overall NRW are satisfied with the submitted information. Dewatering would not occur until the third phase of the working. During Phase 3, it is anticipated that there would be limited dewatering required, then by phase 4 it is anticipated that the site would be dewatering 100% of the time. Should planning permission be granted, a condition would be included to require detailed dewatering plans at each phase of the development.

Furthermore, dewatering would require an abstraction licence from NRW as either a transfer or full licence prior to dewatering commencing. Gaining planning permission will not guarantee that a Water Resource Licence for dewatering would be issued by NRW. At the licence application stage, NRW would require an updated Hydrogeological Impact Appraisal (HIA) and any monitoring completed at the site should be used to support the HIA. Therefore, should planning permission be granted, NRW would regulate the dewatering aspect of the proposal. Notwithstanding this, a condition would be required to provide details of the dewatering prior to commencement of working in each phase.

4.2.11 Restoration, aftercare and long-term management

The proposed extension occupies agricultural land to the west of the existing Denbigh Quarry operations, currently used for pasture. The proposed restoration for the extension area and existing quarry void includes;

- Creation of a Priority Habitat (Calcareous Grassland) along the quarry floor with a gentle slope to allow for natural drainage;
- Creation of a large waterbodies which reflects the naturally fluctuating groundwater level;
- Natural regeneration of trees and shrubs assisted by the addition of soil forming materials on quarry benches.
- Lower cliffs, benches and predicted waters' edge blasted in selected areas to form areas of scree at the base of the quarry and variation in substrate/shallows depths.
- Retention of a water attenuation feature
- The importation of up to 100,000 tonnes of inert waste per annum.

Need for inert waste management for restoration

The proposed application includes the restoration of the site to nature conservation and amenity land. There is insufficient overburden and extraction waste on site to achieve the proposed restoration profile. Therefore, the proposed restoration levels would also involve the importation of inert material to achieve a graded restoration and a suitable final landform and for the proposal to be acceptable in landscape terms.

The rate of importation would vary through the extraction phases, as shown on the submitted drawings accompanying the application. During Phases 2 and 3 the rate of importation would be approximately 50,000 tonnes per annum. This figure would increase to 100,000 tonnes per annum during Phases 4 and 5.

It is considered that there is a demonstrable need for the importation of inert waste as there would be insufficient overburden/extraction waste on site to achieve a suitable final landform post extraction in landscape terms. The importation of clean inert soil forming material would aid the proposed phased restoration of the site by raising levels in part of the quarry back to original ground levels in the north of the site and to allow an appropriate landform and continuity between areas of woodland.

Furthermore, the restoration of the applicant's nearby Maes Mynan Quarry is near completion. Restoration materials that are proven to be available will not be required at Maes Mynan once restoration is complete and therefore the applicant will be able to utilise this restoration material in the Denbigh Quarry restoration. Demonstrating that there is a need and supply of restoration materials available.

In terms of the consideration of the waste hierarchy, it is considered that this restoration of the site using inert soil forming material is considered to be 'recovery' rather than disposal and therefore would accord with the principles of the waste hierarchy pushing waste material up the hierarchy to avoid disposal.

Certainty of completion of restoration

There is a legacy of old limestone quarries in Denbighshire that have been abandoned and not appropriately restored, leaving a health and safety liability and risk. The local ward members would like certainty that this would not happen here at Denbigh Quarry in the future. Members would like reassurance that the site would be restored to a satisfactory standard, and as proposed. Local ward members have suggested that the applicant provide a restoration bond to ensure that the quarry is restored appropriately and to eliminate any doubt of restoration being abandoned.

This matter of providing a restoration bond has been discussed with the applicant. The applicant is a member of the Mineral Product Association (MPA) and as a member, the applicant has access to the MPA Restoration Guarantee Fund. The MPA Restoration Guarantee Fund acknowledges that it could be difficult for restoration conditions to be enforced if an operator becomes financially insolvent and recognises that the obligations to restore 'run with the land' and will be immediately binding on any new owner. The MPA Guarantee Fund offers the benefit of up to £1m for the restoration of sites where the member operator is unable to comply with its planning obligations or conditions.

In addition to this, the applicant is contractually obligated to maintain a full membership of the MPA under their lease with the landowners to ensure eligibility to accessing the MPA Restoration Guarantee fund should it be required in the future. This should therefore provide communities and Local Members the confidence that the site would be restored in the future, even in the event of the operator becoming financially insolvent.

Long term Management/aftercare

Furthermore, the longer-term aftercare for nature conservation purposes would be secured through the EPS Licence for a period not less than 25 years which is beyond the standard 5-year aftercare that could be secured by condition.

As the restoration of this site is a long-term project, the restoration plan would need to demonstrate the compliance with Section 6 of the Environment (Wales) Act, 2016, now and in the future should priorities change. Therefore, a condition would require an annual restoration and habitat management report and meeting to discuss progress and to agree any changes to management and maintenance actions over the life of the development.

4.2.12 Net Benefit for Biodiversity

In autumn 2019 a Chief Planning Officer letter provided guidance on the application of the Environment (Wales) Act Section 6 duty with regard to securing biodiversity enhancement which stated that if this could not be achieved, permission for the development should be refused. Welsh Government more recently reasserted their position with the publication of a letter dated 11 October 2023 to all Chief Planning Officers to pre-empt the publication of PPW12 with this updated chapter 6 to be implemented with 'immediate effect'.

The current guidance with regard to Net Benefit for Biodiversity is as follows:

"Planning authorities must follow a step- wise approach to maintain and enhance biodiversity, build resilient ecological networks and deliver net benefits for biodiversity by ensuring that any adverse environmental effects are firstly avoided, then minimized, mitigated, and as a last resort compensated for. Enhancement must be secured by delivering a biodiversity benefit primarily on site or immediately adjacent to the site, over and above that required to mitigate or compensate for any negative impact....

....a scheme of enhancements must be provided to ensure a net benefit for biodiversity. Where biodiversity enhancement proportionate to the scale and nature of the development is not proposed as part of an application, significant weight will be given to its absence, and unless other significant material considerations indicate otherwise, it will be necessary to refuse permission. Enhancement measures could include on-site, locally relevant, habitat creation and/or could be part of the development itself favouring the use of native species using biodiverse nature-based solutions..."

At the time of assessing the impacts of the proposed development in terms of Net Benefits for Biodiversity, there was no metric in the Welsh planning system in order to quantify benefit. To address Net Benefit for Biodiversity the applicant has proposed biodiversity enhancement in the form of phased restoration throughout the life of the development through to the final restoration and during the aftercare period and beyond into an extended 25-year aftercare period that would be secured through the protected species licence.

The applicant has provided an assessment of each phase providing detail of habitat/vegetation that would be lost and replaced in each phase of the development. The total loss of habitat/vegetation amounts to 4.732 hectares, compared with the total gain of 23.37 hectares over the life of the development throughout the various phases of the quarry development. The County Ecologist has confirmed that the total areas at each phase of the development provides evidence that the resilience of ecosystems is being met at each phase of the development. However, there are non-native invasive species on site at present which could harm the long-term biodiversity value of the site, therefore, a condition is necessary to require the submission of a biosecurity risk assessment for written approval.

The County Ecologist has confirmed that the proposal is acceptable and meets the requirements of the new policy to ensure net benefit for biodiversity over the life of the development and beyond with the proposed extended aftercare period that would be secured by the European Protected Species Licence. As such, it is considered that the proposal accords with the provisions of PPW11, Welsh Government Letter dated 11th October 2023 updating Chapter 6 of PPW, and Policies VOE 1 and VOE 5 of the adopted Denbighshire Local Development Plan.

4.2.13 Economic benefits

Planning Policy Wales 11 states that Society needs, and will continue to need for the foreseeable future, a wide range of minerals. Minerals are the principal constituents of most construction products, many pharmaceutical, chemical, agricultural, automotive, metallurgical, electronics, aerospace, plastics ceramic and paper products. Construction related minerals and mineral products are particularly important in Wales and are essential for housing and infrastructure, such as schools, roads, railways, airports and flood defences and a steady and adequate supply of materials is necessary.

The provision of aggregates contributes significantly towards economic well-being by allowing other development to take place. Minimisation of the distance of transport of minerals reduces the amount of fuel needed which contributes to the sustainability of the proposal. This means that supplies should be obtained close to the point of use.

Local residents have raised in their objections that there would be no benefit to Denbigh residents. However, it is considered that the grant of planning permission would have a positive social effect in terms of retaining employment for a considerable period and also a positive economic effect by increasing the quantity of a saleable item for which there is proven demand.

The quarry directly employs 7 members of staff and 2 contractors. Three members of staff are also employed in the concrete batching plant on site which is owned and operated by Breedon so therefore is directly linked to the quarry operations as the raw materials are supplied from the quarry in the manufacture of concrete. There are some 20 hauliers who are indirectly affected by the quarrying at site.

Should planning permission be granted, those existing employees would be retained, and their employment would be extended for another 25 years. Furthermore, the indirect employment for the hauliers for example would also be extended, thus contributing to the local economy through the supply chain.

Within their objection letters, residents have expressed concern with regards to the quarry products derived from this quarry, and they have stated that there is no need for the products from this quarry and it can be sourced elsewhere. The applicant has confirmed that the current markets would continue as existing should the planning permission be granted. Their current markets include internal and external supply of aggregates for construction / concrete / asphalt and agricultural supply inclusive of agricultural lime which is widely used by the local farmers. Approximately 56% of their sales supply Breedon run 'ready mix' concrete plants located in Denbigh (on site), Wrexham, Deeside, Northwich, Crewe and Warrington. Therefore these markets are located principally within North Wales and in the North West of England. The remaining 44% of quarry products are sold externally which include agricultural lime.

With regards to agricultural lime, the NFU Cymru have confirmed that, number of quarries that extract and provide lime for agricultural land is decreasing significantly. Historically, the area in South Gwynedd has been transporting lime from a quarry near Llyncllys in North Powys, but this quarry has now stopped trading.

Over the past five years more attention has been given to soil health and nutrient levels in it through the Welsh Government's Farming Connect programme. This work has been boosting soil nutrients and has supported farmers to make more use of lime on their farms which improves the absorption of nutrients to crops, by running regular soil tests. This means that these businesses can farm more efficiently, reducing the use of artificial fertiliser, which in turn reduces the use of fuel and reduces the carbon footprint of the businesses in turn.

With increasing pressure on the environmental performance of farms being highlighted for Welsh Government Schemes such as the Sustainable Farming Scheme from 2025 onwards, more emphasis will be placed on protecting the most beneficial pH levels for growing crops. Having a standard supply of lime broken into powder fairly locally is key for these agricultural businesses. There currently are no quarries within close proximity that supply agricultural lime. The following quarries which provide fine lime are closest to the area; Cardigan, Llanandras, Buxton and Matlock. For agricultural businesses located in North Wales, Denbigh is closer than the other suppliers. Should planning permission be refused, farms in North Wales that require the supply of agricultural lime would need to travel further distances, increasing the costs of transporting from an area further away which may lead to an increase in the costs of the farm produced, and it would also increase the carbon footprint of the farm businesses.

Should planning permission be granted therefore, this would extend the life of the quarry for a further 25 years thus extending the local direct and indirect economic benefits for a further 25 years.

4.2.14 Community Benefits

The Denbigh Member Area Group have requested that the applicant offer a Community Benefit Fund for the local community to access. However, there would be no policy mechanism to support or justify this request as the justification within Policy BSC3 of the adopted Local Development plan states that measures to mitigate the impact of the development should be fairly and reasonably related in scale to the development and its resulting impact. This report has set out how the predicted impacts would be mitigated, therefore, the request for a community fund through a Section 106 legal agreement would therefore not meet the tests of Circular 13/97.

Notwithstanding the fact that there is no formal way to secure a Community Benefit Fund through the planning system, Breedon has approached Denbighshire County Council's Community Benefits Team with regards to formalising a 'Voluntary' Community Benefit Fund.

The applicant has confirmed that they are committed to supporting a variety of community schemes which take the form of sponsorships, donations of materials, defibrillators, volunteering, use of plant machinery on community projects and financial donations to the likes of 'Denbigh in Flower' and the Denbigh Carnival. The applicant feels that by offering charitable donations such as this, they are able to offer real support to the community and it's not limited to registered charities or a monetary value.

In the past 12 months Breedon have confirmed that they have donated the following to the local community:

1. Denbigh Rugby Club; donated materials for the Walling Stone Entrance to the Club – 25/10/22
2. Denbigh Town Council; donated the provision of a defibrillator – 14/11/22
3. Denbigh Town U9's Football team sponsor Track Tops - £520.80- 16/10/22
4. North Wales Wildlife Trust Annual Membership - £350.00 -13/02/23
5. Denbigh Rugby Club; donated material for a new gym - 07/03/23
6. Denbigh Carnival; sponsor - £300.00 - 24/06/23
7. Denbigh Carnival Pitch - £50.00 - 24/06/23
8. Denbigh Flower Show; sponsor- £300.00 – 26/08/23
9. Agreed to provide Denbigh Men Shed with hardcore for the ground works of a 16 x 16 shed – 29/08/23

As stated above, there is no Policy mechanism in the LDP to enable the Mineral Planning Authority to secure a community benefit fund through the planning process, either by condition or Section 106 legal agreement. Furthermore, it cannot be stated

as a reason for refusal of planning. However, evidence has been provided above with regards to the charitable donations that the applicant does provide to the local community. Furthermore, the applicant has confirmed that they would like to explore ways that community benefits could be formalised outside of the planning process. They have confirmed that they have met with the Council's Community Funding/Benefit Team to discuss how this can be progressed and achieved.

The Aggregates Levy Fund (which unfortunately closed at the end of 2016) used money from the aggregates tax to fund community-led projects. Quarry operators continue to pay this aggregate tax but this funding is no longer used to benefit the local community. However, The Minerals Product Association and also the Planning Officer Society for Wales are in discussion with Welsh Government to try and resurrect this fund which invested £20 million into community and environmental projects within the quarrying communities over the last 20 years across Wales.

The proposed footpath improvements on the existing public rights of way, and the proposed diversion by way of providing an all-weather surface on the wider footpath network surrounding the quarry would offer opportunities for those less able to walk to enjoy the countryside, improve their health and well-being and this would contribute to the goals set out in the Well-Being and Future Generations (Wales) Act 2015. This is considered to be offering community benefits and planning gain as a result of the proposed extension.

Furthermore, it is considered that the proposed permissive route to the north of the quarry offered by the landowner as a form of community benefit would also be considered to be planning gain and benefit to the local community to provide a circular route on the surrounding footpath network.

4.2.15 Environmental Assessment

In accordance with the regulation 14 of the Town and Country Planning (Environmental Impacts Assessment) (Wales) Regulations 2017 the Local Planning Authority issued a Scoping Opinion on 14th August 2028. This application is accompanied by an Environmental Statement (ES) which has taken into account the Council's Scoping Opinion. It is considered that the submitted ES has been prepared in accordance with the requirements of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017. The Environmental Statement considered the likely significant environmental effects resulting from the lateral extension and consolidation of existing operations at the quarry.

Furthermore, additional information was requested by the Mineral Planning Authority in order to make a decision. On receipt of the additional information, the Mineral Planning Authority published this in accordance with Regulation 24 of the EIA Regulations. The environmental effects of the proposal have been comprehensively assessed within the submitted ES and addendum/additional information. The conclusion of the ES is such that there would be no significant environmental effects of the proposal subject to mitigation detailed within the ES and planning application.

Other matters

Well – being of Future Generations (Wales) Act 2015

The Well-being of Future Generations (Wales) Act 2015 imposes a duty on the Council not only to carry out sustainable development, but also to take reasonable steps in exercising its functions to meet its sustainable development (or well-being) objectives. The Act sets a requirement to demonstrate in relation to each application determined, how the development complies with the Act.

The report on this application has taken into account the requirements of Section 3 'Well-being duties on public bodies' and Section 5 'The Sustainable Development Principles' of the Well-being of Future Generations (Wales) Act 2015. The

recommendation is made in accordance with the Act's sustainable development principle through its contribution towards Welsh Governments well-being objective of supporting safe, cohesive and resilient communities. It is therefore considered that there would be no significant or unacceptable impact upon the achievement of well-being objectives as a result of the proposed recommendation.

Equality Act 2010

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation. A public authority must, in the exercise of its functions, have due regard to advancing equality.

Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

The above duty has been given due consideration in the determination of this application. It is considered that the proposed development does not have any significant implications for, or effect on, persons who share a protected characteristic, over and above any other person.

5. SUMMARY AND CONCLUSIONS:

- 5.1 The proposal involves a lateral extension to the west of Denbigh Quarry which would release a further 4.4 million tonnes of limestone, working in five phases with progressive restoration for nature conservation/amenity land for a period for 25 years so that future demand for limestone and agricultural lime can be met. The application also proposes to consolidate the extant permission on the site for the extension of winning and working of limestone, and also includes the importation of inert waste to achieve an acceptable landform post extraction.
- 5.2 The quarry has been situated on the outskirts of Denbigh for many years, and it is considered that the proposed extension is modest in area and is relatively small in the context of the site.
- 5.3 Whilst the operation as a whole can be considered to be sustainable development, an extension to an existing quarry is also considered to be preferable to a greenfield development in a sustainability hierarchy because existing infrastructure can be used. Both operations are predicated on there being a 'need' for the development, in this case a demand for the mineral is proven in the recent past by sales and in the future by the predictions of the Regional Technical Statement (2nd Review) aligned with the Statement of Sub-Regional Collaboration which provides the evidence of a demonstrable need for crushed rock on a sub-regional scale in North-East Wales. As such, it is considered that the proposal is in compliance with the provisions of PPW11, MTAN1, Policy PSE17 of the adopted Denbighshire LDP as the RTS 2 states that there is a shortfall of crushed rock within the sub-region, and this proposed extension would meet that need.
- 5.4 Whilst the western extension proposed would result in the loss of 4 hectares of BMV agricultural land (ALC grade 2 and 3a), it is considered that the applicant has demonstrated compliance with PPW 11. Minerals can only be dug where they exist and the extension of a quarry, using the existing infrastructure is a more sustainable solution than creating a new site to meet the identified need. The opportunity to expand the quarry in other directions is constrained by the need to avoid SSSIs, Tree Preservation Orders, Ancient Woodland. That need for the development has been established by the provision requirements in the Regional Technical Statement (2nd Review) on a sub-regional scale. Therefore, on balance, the loss of the 4 hectares of BMV agricultural land is out-weighted by the demonstrable need for aggregate crushed rock limestone and agricultural lime.

- 5.5 The application through the Planning Statement and the Waste Planning Assessment clearly demonstrates that there will be a need for increased capacity for inert restoration material, and that the approved restoration scheme would require the importation of inert restoration material as a 'recovery' operation to provide an appropriate restoration profile for the final landform post excavation.
- 5.6 The extension area would result in the diversion of a public right of way. However, the applicant is committed to provide a permeable all-weather surface to delineate the public right of way to the south and west of the quarry with maintenance being carried out for the period of time up to the end of the aftercare period. The applicant would also be seeking to provide two benches along the route that would be gifted to Denbigh Town Council. This would make the public footpath more attractive to a wider range of path users and improve access to the countryside to the less able and users with restricted mobility. These footpath improvements offered on the wider footpath network surrounding the quarry would offer opportunities for those less able to walk to enjoy the countryside, improve their health and well-being and this would contribute to the goals set out in the Well-Being and Future Generations (Wales) Act 2015.
- 5.7 Should planning permission be granted, the quarry will extend the period of employment for the existing employees and will contribute to the local economy through the supply chain for a further 25 years. On the matter of community benefit payments, Officers would respectfully note that these should not be a factor in considering the merits of the application or impact on the decision-making process.
- 5.8 The environmental effects of the proposed lateral extension and consolidating application for the extension of winning and working of limestone, importation of inert waste and restoration to amenity land/nature conservation have been comprehensively assessed within the submitted ES, technical appendices and addendum/additional information. The ES has considered and assessed the impacts of the proposed extension to the quarry in terms of landscape and visual amenity, impacts on ecology, trees and nature conservation, and adjacent designated sites/protected species, noise, air quality, traffic, transportation and highways, archaeology and built heritage, hydrology and hydrogeology. The conclusion of the ES is such that there would be no significant environmental effects of the proposal subject to mitigation detailed within the ES and planning application. There are no significant residual effects predicted as a result of the proposal.
- 5.9 All planning decisions are required to be taken into accordance with the Development Plan that is in force unless material considerations dictate otherwise. In determining this application, the Council has had regard to the Policies of the Development Plan, and regional and national policy, legislation and guidance. Subject to the imposition of conditions as listed above, there is no sustainable planning reason why planning permission should be refused. Accordingly, it is recommended that planning permission should be granted subject to conditions and a deed of variation of the existing section 106 legal agreement which protects land adjacent to the quarry from development, and also provides for management of Tŷ Crest Wood, and Crest Mawr SSSI.

The recommendation is subject to the completion of a further Deed of Variation to the 2022 deed of variation and 1992 Section 106 Obligation. The Certificate of Decision would only be released on completion of the Deed.

RECOMMENDATION: GRANT- subject to the following conditions:

1. **Time Limit for Commencement**

The development to which this permission relates shall be begun no later than five years from the date of this permission. Written notification of the date of commencement of any works on the site deemed to begin the development shall be sent to the Mineral Planning Authority within five working days of such commencement.

2. **Approved Plans**

This permission relates to the extraction and processing of limestone and associated restoration, landscaping and aftercare works within the area as shown edged in red on the approved Location Plan reference Drawing No. M18.155.D.003 and hereinafter referred to as the 'site'.

3. **Approved Plans**

The development hereby permitted shall be carried out strictly in accordance with the details shown on the following submitted plans and particulars unless specified as otherwise within any other condition pursuant to this permission:

(i) Location Plan (Drawing No. M18.155.D.003) - Received 7 June 2022 (ii) Current Situation v2 (Drawing No. M18.155.D.004) - Received 7 June 2022 (iii) Concept Restoration (Drawing No. M18.155.D.007) - Received 7 June 2022 (iv) Heritage Designations and ZTV v2 (Drawing No. M18.155.D.009) - Received 7 June 2022 (v) Phase 1 (Drawing No. M18.155.D.024) - Received 7 June 2022 (vi) Phase 2 (Drawing No. M18.155.D.025) - Received 7 June 2022 (vii) Phase 3 (Drawing No. M18.155.D.026) - Received 7 June 2022 (viii) Phase 4 (Drawing No. M18.155.D.027) - Received 7 June 2022 (ix) Phase 5 (Drawing No. M18.155.D.028) - Received 7 June 2022 (x) Section A-A (Drawing No. M18.155.D.039) - Received 7 June 2022 (xi) Section B-B (Drawing No. M18.155.D.041) - Received 7 June 2022 (xii) Planning Statement & Appendices (Volume 1) - Received 20 June 2022 (xiii) Pre-Application Consultation Report (Dated Dec 2021) - Received 7 June 2022 (xiv) Pre-Application Public Engagement Report (Dated Nov 2021) - Received 7 June 2022 (xv) BS 5837:2012 Tree Survey Report & Appendices (Dated 17/12/19) - Received 7 June 2022 (xvi) Denbigh Quarry Stile - Footfall Report - Received 7 June 2022 (xvii) Geophysical Survey Report (Total Magnetic Intensity - Archaeology) (Date 01/10/19) - Received 7 June 2022 (xviii) Environmental Statement & Appendices (Dated Feb 2022) - Received 20 June 2022 (xix) Scoping Opinion (Dated 14/08/19) - Received 7 June 2022 (xx) Heritage Statement & Appendices (Dated Oct 2021) - Received 7 June 2022 (xxi) Landscape and Visual Impact Assessment & Appendices (Dated Jan 2021) - Received 7 June 2022 (xxii) Ecological Impact Assessment & Appendices (Dated Sept 2021) - Received 7 June 2022 (xxiii) Great Crested Newt Survey Report (Dated Dec 2019) - Received 7 June 2022 (xxiv) Bat Roost Survey Report (Dated Dec 2019) - Received 7 June 2022 (xxv) Bat Activity Survey Report (Dated Dec 2019) - Received 7 June 2022 (xxvi) Badger Survey Report (Dated Dec 2019) - Received 7 June 2022 (xxvii) Dormouse Survey Report (Dated Dec 2019) - Received 7 June 2022 (xxviii) Breeding Bird Survey (Dated Nov 2019) - Received 7 June 2022 (xxix) Preliminary Ecological Appraisal Revision B & Appendices (Dated Sept 2021) - Received 7 June 2022 (xxx) Dust Risk Assessment - Received 7 June 2022 (xxxi) Hydrological & Hydrogeological Impact Assessment & Appendices (Dated 04/02/22) - Received 7 June 2022 (xxxii) Hydrological & Hydrogeological Impact Assessment - Figures (Dated 02/02/22) - Received 7 June 2022 (xxxiii) Noise and Vibration Assessment & Appendices - Received 7 June 2022 (xxxiv) Air Quality & Dust Assessment - Received 7 June 2022 (xxxv) Agricultural Land Classification (Dated 16/01/20) - Received 7 June 2022 (xxxvi) Waste Planning Assessment - Received 7 June 2022 (xxxvii) Dust Impact Assessment (Ref: 425.064845.00001 Rev 1.1, SLR Consulting Ltd dated 14/07/23) - Received 19 July 2023 (xxxviii) Noise Assessment (Ref: 403.064944.0001 Rev 02 SLR Consulting Ltd dated 02/08/2023) (xxxix) Phase 5 Full Extraction (Ref: M18.155.D.040) received 21/06/2022

4. **Approved Plans**
Throughout the operational life of the site a copy of this permission, including all documents hereby permitted, or subsequently approved, and forming part of the permission, shall always be available at the site office for inspection during normal working hours as set out in Condition No. 28 of this permission.
5. **Duration of the life of the development**
The winning and working of limestone shall not extend beyond the area as shown on approved plan Ref: M18.155.D.040 and shall cease at the site within 25 years from the date of the commencement of development hereby granted by this permission. The dates of final cessation of mineral extraction shall be notified in writing to the Mineral Planning Authority within 14 days of the said date.
6. **Duration of the life of the development**
The site shall be restored to the satisfaction of the Mineral Planning Authority within two years of the permanent cessation of winning and working of minerals, or within 27 years of the date of the commencement of development of this permission, whichever the sooner. Any building, plant, machinery, foundation, hardstanding, roadway, structure or erection in the nature of plant or machinery used in the connection with the development hereby permitted shall be removed from the site, and upon their removal, the land shall be restored in accordance with the restoration scheme approved under condition No. 45 of this permission. The dates the completion of final restoration of the site shall be notified in writing to the Mineral Planning Authority within 14 days of the said date.
7. **Development Phase**
Notification shall be provided to the Mineral Planning Authority of the date of the material start of each phase of development in writing at least 5 working days prior to each phase. The Phases of development shall comprise:
 - i. Phase 1 (Drawing No. M18.155.D.024)
 - ii. Phase 2 (Drawing No. M18.155.D.025)
 - iii. Phase 3 (Drawing No. M18.155.D.026)
 - iv. Phase 4 (Drawing No. M18.155.D.027)
 - v. Phase 5 (Drawing No. M18.155.D.028)
8. **Development Phases**
Unless the prior approval of the Mineral Planning Authority has been obtained in writing, the maximum annual sales of limestone from the quarry shall not exceed four hundred thousand (400,000) tonnes, and the Mineral Planning Authority shall be supplied with sales figures on an annual basis to verify the sales on request.
9. **Development Phases**
Unless the prior approval of the Mineral Planning Authority has been obtained in writing, the maximum annual importation of inert restoration material shall not exceed one hundred thousand (100,000) tonnes and the Mineral Planning Authority shall be supplied with transfer notes on an annual basis on request. Inert waste restoration materials shall be placed directly to areas which are being restored to approved restoration levels and there shall be no processing of inert restoration materials on site.
10. **Development Phases**
Within three months of the date of this consent, a scheme shall be submitted to the Mineral Planning Authority for written approval which shall cover the following matters:-
 - i. The phased implementation of this planning permission including the anticipated dates for the commencement of each phase;
 - ii. carrying out, completion, restoration, landscaping and aftercare of each phase of the development.
11. **Development Phases**
All existing perimeter hedges, trees, undisturbed ground vegetation and fences shall be maintained and protected and hedges and boundary fences shall be made stock-proof and shall be maintained throughout the life of the permitted quarry operations until the restoration

of the site is completed to the satisfaction of the Mineral Planning Authority. Site operations shall not disturb or destroy any retained hedges and trees including boundary hedges and trees, other than those identified for removal on the approved plans, and fences shall be erected and maintained to protect the same. Retained hedgerows within or bounding the site shall be carefully maintained, cut and trimmed when appropriate, at the proper season throughout the period of working and restoration of the site.

12. **Development Phases**

Topsoil, subsoil and soil making material shall only be stripped when they are in a suitably dry and friable soil moisture condition, and no movement of soils shall occur:

- a. During the months October to April (inclusive), unless otherwise agreed in writing with the Mineral Planning Authority; or
- b. When the upper 1200mm of soil has a moisture content which is equal to or greater than that at which the soil becomes plastic, tested in accordance with the 'Worm Test' as set out in BS 1377:1975 - 'British Standard Methods Test for Soils for Civil Engineering Purposes'; or
- c. When there are pools of water on the soil surface.

13. **Development Phases**

All stripped topsoil and subsoil shall be retained on the Site, and none shall be sold or removed from the site.

14. **Development Phases**

All topsoil, subsoil and overburden bunds shall be graded and seeded to grass and/or a suitable leguminous species to the satisfaction of the Mineral Planning Authority. Unless otherwise previously agreed in writing with the Mineral Planning Authority the bunds shall be immediately seeded following their completion and re-seeded on bare patches until a satisfactory growth is achieved.

15. **Development Phases**

All areas of the site left undisturbed and all topsoil, subsoil, soil making materials and overburden bunds shall be managed and kept free from noxious weeds and measures shall be taken to destroy weeds at an early stage of growth to prevent seeding.

16. **Development Phases**

Measures shall be taken to ensure that the operations carried out within the site do not give rise to the pollution or silting of any watercourse or other land, and do not cause any flooding and to ensure that the natural or artificial drainage of any adjoining land is not adversely affected by any operations carried out within the site. There shall be no discharge of surface water from the site onto any adjoining public right of way.

17. **Development Phases**

Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankages, the compound shall be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground level and protected from accidental damage. All filling points and tank overflow pipe outlets shall be designed to discharge downwards within the bund. There shall be no discharge of oils, fuels, chemicals, contaminated surface water or plant effluent onto any land, watercourse or underground strata.

18. **Development Phases**

Access to and from the site for all quarry traffic shall only be gained via the existing access from Ffordd y Graig/Graig Road

19. **Development Phases**

No heavy goods vehicle exiting the Site shall enter the public highway in a condition which is liable to cause deposits of mud, debris limestone dust or product or other or deleterious

materials on the public highway. Measures shall be employed at all times to ensure that the public highway is kept clean and free from dust, limestone products, mud and other deleterious material originating from the site. All heavy goods vehicles shall be cleaned of mud and debris by use of wheel/chassis cleaning facilities on site. The wheel cleaning facilities shall be maintained in a good working order and adequately maintained in a good working order throughout the life of the development hereby approved. Methods of removal of debris, mud and dust, and ensuring that none is deposited on the highway shall be reviewed annually. Should current clean methods prove ineffective additional measures shall be approved by the mineral planning authority and implemented as required.

20. **Development Phases**

Measures shall be taken to ensure that, as far as is practical, the surfaces of the quarry access roads are kept free from mud and other detritus and that they are maintained at all times in a good condition to the satisfaction of the Mineral Planning Authority. The surfacing of the existing access road as referred to in Condition No.18 above shall be maintained in a good state of repair and shall be swept regularly and a water bowser used to ensure the access road is kept clean and free of dust, limestone products, mud and other deleterious material at all times until the completion of the site restoration and aftercare.

21. **Development Phases**

All road vehicles leaving the site carrying limestone below 150 mm diameter shall be trimmed and sheeted. The vehicles shall be sheeted or otherwise totally enclosed as soon as possible after loading and before leaving the site.

22. **Development Phases**

Except as permitted by this permission and notwithstanding the provisions of Part 19 of the Town and Country General Development Order 1995, no buildings, fixed plant, structures, machinery or lagoon areas (except mobile plant and machinery) shall be erected or replaced on any part of the site, without the prior written approval of the Mineral Planning Authority.

23. **Noise management, mitigation and monitoring**

The best practice mitigation measures to minimise noise arising from the operations at the site shall be employed at all times to minimise the emissions of noise arising from the development hereby approved, as detailed within approved Noise Assessment (Ref: 403.064944.0001 Rev 02 SLR Consulting Ltd dated 02/08/2023). Within three months of the date of this permission, a 'Noise Management and Monitoring Action Plan' shall be submitted to the Mineral Planning Authority for written approval. Once approved, measures within the Noise Management and Monitoring Action Plan shall be employed and maintained at all times to minimise the emissions of noise arising from the development including all operations, vehicular movements, extraction operations, minerals, soils and overburden stockpiling and soil spreading operations throughout the period of mineral extraction, ancillary operations and restoration.

The approved 'Noise Management and Monitoring Action Plan' shall provide details for and address the need for and, where necessary, include:

- a) All vehicles, plant and machinery operated within the site shall be maintained in accordance with the manufacturer's specifications at all times,
- b) All vehicles, plant and machinery shall be fitted with effective silencers in accordance with the manufacturers recommendations
- c) All vehicles, plant and machinery in the operator's control shall use noise attenuating equipment such as broad band reversing warning devices, or 'white noise' reversing alarms and operated in a way to minimise noise emissions.
- d) With the exception of the purpose of maintenance, no machinery shall be operated with the covers open or removed.
- e) All vehicles, plant and machinery not in use on site shall be turned off
- f) The Quarry access road referred to in Condition No. 18 above will be maintained
- g) free of potholes and undulations,
- h) All mobile plant and vehicles shall be submitted to an on-site speed limit
- i) Drop heights at loading or transfer points will be minimised

- j) Provision for noise monitoring and review of the scheme and where necessary additional noise mitigation measures shall be agreed and implemented if noise emissions are causing a justifiable complaint if noise limits as set within Condition No. 24 and No. 25 are being breached.

24. Noise management, mitigation and monitoring

Notwithstanding the provisions of Condition No. 23 above rated noise, levels attributable to mineral operations at the site at nearest noise sensitive properties used as a dwelling shall not exceed 10dB LAeq (1 hour) above background noise levels subject to a maximum of 55 dB.

25. Noise management, mitigation and monitoring

During temporary and short-term operations such as soil stripping and bund formation, noise from operations shall not exceed 67dB(A) (1 hour, free field) when measured at any noise sensitive property. Such temporary operations shall be limited to a total of 8 weeks within any 12 month period

26. Dust management, monitoring and mitigation

The best practical means shall be employed at all times to minimise the emission of dust from the development hereby permitted. In the event that dust generated by any of the operations hereby permitted is seen crossing the Site boundary, the operations giving rise to the dust shall cease or be curtailed until dust is no longer visibly crossing the Site Boundary. Notwithstanding this, within three months of the date of the permission, a Dust Management and Monitoring Action Plan shall be submitted to the Mineral Planning Authority for written approval. Once approved, measures within the Dust Management and Monitoring Action Plan shall be employed and maintained at all times to minimise the emissions of dust arising from the development including all operations, vehicular movements, extraction operations, minerals, soils and overburden stockpiling and soil spreading operations throughout the period of mineral extraction, ancillary operations and restoration.

The Dust Management and Monitoring Action Plan shall provide details for and address the need for and, where necessary, include:

- a. Dust monitoring
- b. The suppression of dust caused by the movement and storage of soil, overburden, stone and other materials within the site;
- c. The provision of a mobile water bowser on site at all times to be deployed within the quarry and on access roads and haul routes as required;
- d. The provision of spray and mist cannon as appropriate to dampen vehicles, stockpiles, roads etc
- e. The enforcement of a speed limit for mobile plant and haulage vehicles;
- f. The fitting of drilling rigs with efficient dust management measures;
- g. A stockpile management plan for soil and quarry products.
- h. Sheeting of all loaded haulage vehicles before leaving the site;
- i. The provision and use of a vehicle cleansing facility for all haulage vehicles leaving the quarry which shall be adequately maintained and used throughout the operational life of the site;
- j. Suspension of activities should dust be travelling across the site boundary;
- k. Weather/wind conditions shall be taken into account in the operations of the quarry to ensure that that the weather would not increase the likelihood of dust being transported across the boundary of the site;
- l. Reducing drop heights from excavators and loading of vehicles where possible;
- m. Exhausts of all new mobile plant introduced to the site to be directed away from the ground
- n. A site diary shall be maintained to log any complaints and take remedial action as necessary;
- o. Formal inspections for dust emissions at the site boundary shall be made at least once daily to monitor dust emissions and take remedial action as necessary;
- p. Provision for monitoring and review of the scheme and where necessary additional measures shall be agreed and implemented if dust emissions are causing a justifiable complaint.

The effectiveness of the approved Dust Management and Monitoring Action Plan shall be continually monitored. Any deficiencies in the approved Dust Management and Monitoring Action Plan shall be notified to the Mineral Planning Authority and addressed through the submission of a revised Dust Action Plan and timescales for the written approval of the Mineral Planning Authority. The revised scheme and its associated timescales shall be implemented immediately after their approval.

27. **Lighting**

Prior to the installation of any lighting, a bat friendly lighting plan shall be submitted for written approval to the Mineral Planning Authority. The lighting shall be implemented as approved for the life of the development hereby approved.

28. **Hours of operation**

The permitted hours of working of the permitted Site and associated operations shall only be undertaken between the hours of 0600 and 1800 hours Mondays to Fridays, and 0600 and 1200 hours on Saturdays. There shall be no working on any Sunday or statutory/Public Holiday.

No other operations apart from maintenance, or emergency works in connection with the safety of the site shall be carried out outside these hours, or on any Sunday Bank or public holiday.

29. **Blast Management**

The best practical means shall be employed at all times to minimise ground vibration and air overpressure from blasting operations. The blast design, when calculated with a 95% confidence limit, shall be such that vibration levels arising from the blast shall not exceed a Peak Particle Velocity of 6 millimetres per second in any plane, as measured at the nearest residential or other vibration sensitive property affected by vibration from blasting at the Site.

30. **Blast Management**

Unless otherwise previously agreed in writing with the Mineral Planning Authority every blasting event undertaken within the Site shall be monitored at such point/s as may be agreed with the Mineral Planning Authority. The monitoring shall record Peak Particle Velocity of the ground vibration arising on the longitudinal, transverse and vertical planes, the frequency of the vibration in each plane, the resultant Peak Particle Velocity and Air Over-Pressure recorded in decibels.

31. **Blast Management**

The monitoring referred to in Condition No. 30 above, shall be programmed so as to update regularly knowledge of vibration propagation on the ground surrounding the site. Upon request the updated results and Regression times of Peak Particle Velocity against Scale Distance shall be supplied to the Mineral Planning Authority at three (3) monthly intervals on request. The Regression lines supplied shall be the Mean line and the 95th percentile limit line and shall be relevant to each monitoring location.

32. **Blast Management**

Unless otherwise agreed in writing with the Mineral Planning Authority, and except in the case of emergency, there shall be no more than three blasts in any one calendar month for the initial 12 months of the commencement development. After this time, there shall be no more than two blasts in any one calendar month, up to a maximum of 12 blasts in any 12-month period, throughout the life of the development.

33. **Blast Management**

Blasting at the quarry shall be undertaken in accordance with the approved Blasting Protocol for the quarry as approved under application reference 01/2023/0239 for the life of the development unless a revised Blasting Protocol is subsequently approved in writing.

34. **Archaeology**
Prior to the commencement of development hereby approved, a Written Scheme of Archaeological Investigation using a strip/map/excavate methodology shall be submitted for written approval by the Mineral Planning Authority.
35. **Archaeology**
No development shall take place (including, soil stripping, ground works, vegetation clearance) until a programme of archaeological work has been implemented in accordance with the approved Written Scheme of Archaeological Investigation, required by Condition No. 34. The programme of archaeological programme of work will be undertaken and completed in accordance with the relevant Standards and Guidance provided by the Chartered Institute for Archaeologists.
36. **Nature Conservation**
Prior to commencement of development (including, soil stripping, ground works, vegetation clearance) in each phase as defined by Condition No. 7 updated Ecological Surveys shall be submitted to the Mineral Planning Authority for written approval and shall inform the Great Crested Newt Conservation Plan and Landscape and Ecological, Habitats and Aftercare Management Plan as required by Conditions No. 37 and No. 38 respectively.
37. **Nature Conservation**
Prior to the commencement of development (including, soil stripping, ground works, vegetation clearance) in each phase as defined by Condition No.7, a Great Crested Newt (GCN) Conservation Plan shall be submitted to and approved in writing by the Mineral Planning Authority. The approved Conservation Plan shall include:
- a) Build upon the principles outlined in the approved GCN Survey Report (Pleydell Smithyman, December 2019)
 - b) A plan showing habitat to be lost/habitat to be created/areas to be retained which should identify the extent and location on appropriate scale
 - c) Submission of details and associated plans concerning GCN avoidance and mitigation measures including fence design, specifications and proposed locations; consideration of access issues across fence lines; fence monitoring and maintenance requirements; and supervised removal of barrier fences.
 - d) Submission to include proposed timescales and reporting requirements.
 - e) Submission of further details concerning on-site compensatory proposals including plans, extent, access, current and proposed tenure. Details to include areas of terrestrial and aquatic habitat to be retained, enhanced, and created.
 - f) Submission of a long term site management (not less than 25 years) that includes defined aims and objectives; habitat management prescriptions; contingency measures if fish or invasive non-native species (INNS) are detected; proposals that are capable of being implemented in the event of failure to undertake or to appropriately undertake identified or contingency actions; site liaison and wardening; licensing requirements for undertaking habitat management and surveillance; current and any proposed changes to tenure of the compensation area; persons responsible for undertaking management and surveillance together with required skills and competencies; reporting requirements; and proposed dates for updating or revising the management plan.
 - g) Submission of measures designed to prevent the accidental capture/killing of newts (amphibians) during operational and restoration phases of the development.
 - h) Details of timing, phasing and duration of operational ground works and restoration activities and conservation measures.
 - i) Timetable for implementation demonstrating that works are aligned with the proposed development.
 - j) Ecological Compliance Audit, including key performance indicators.
 - k) Persons responsible for implementing the works.
 - l) Post restoration monitoring and record dissemination for a period of not less than 25 years. All ponds (and other water features) shall be added to the Wales Great Crested Newt Monitoring Scheme, (see <https://www.cofnod.org.uk/LinkInfo?ID=7> with individuals/bodies being identified as being responsible for monitoring and reporting works. Methodology shall include annual abundance counts and Habitat Suitability Index (HSI) assessments. Each

water body, including any water feature proposed for surface water management, shall be individually numbered on site.

The approved Conservation Plan shall be carried out in accordance with the approved details for the life of the development including the restoration and aftercare period.

38. Nature Conservation

Prior to the commencement of development (including, soil stripping, ground works, vegetation clearance) in each phase as defined by Condition No.7, a Landscape and Ecological, Habitats and Aftercare Management Plan (LEMP) shall be submitted to and approved in writing by the Mineral Planning Authority. The approved LEMP shall include the following:

- a) The Final concept restoration plan for each phase
- b) To maintain and enhance broadleaf woodland in the long-term including improving connectivity between woodland block and extending woodland habitats;
- c) To restore and enhance great crested aquatic and terrestrial habitats in the long term. Habitat creation and enhancement to improve connectivity and habitat functionality for the species;
- d) To restore and ensure the long term functionality of habitats for dormouse and bats;
- e) To manage, create and upkeep habitats for birds including those listed under Schedule 1 of the Wildlife and Countryside Act 1981 (as amended) and Annex 1 of the Birds Directive. Provision aims to deliver Regulation 10 of the Conservation of Habitats and Species Regulations 2017 (as amended);
- f) To incorporate the requirements of DECCA, ecosystem resilience and green infrastructure provision;
- g) To restore maintain and enhance habitats and species listed under the provisions of Section 7 of the Environment (Wales) Act 2016 in the long term;
- h) To undertake actions that accord with the planned provision and management of ""stepping stone"" and linear habitats in accordance with the requirements of Regulation 41 of the Conservation of Habitats and Species 2017 (as amended) in the long term; and
- i) To restore, maintain and enhance habitats and species listed under local nature recovery plans in north east Wales in the long term.
- j) Only native species shall be planted within the site
- k) The planting of trees, hedgerows and shrubs, to include the following;
 - i. The location, species, numbers, sizes and timing of the planting of trees, hedgerows and shrubs within the site;
 - ii. the methods of planting, protection, maintenance and replacement of trees, hedgerows, and shrubs within the site.
- l) The location of existing, retained vegetation and woodland areas within the site, including their protection, management and enhancement.
- m) A timeline of each phase and shall include timescales for:
 - i. Perimeter bund removal
 - ii. Replacement bund formation, detailed bund design and planting
 - iii. Details of Vegetation removal
 - iv. Details of planting; number, species and location
 - v. Monitoring and management of planting including annual reporting
- n) Detailed five-year aftercare scheme for the management and maintenance of habitats established which shall include:
 - i. Replacement of trees and shrubs and areas of vegetation which die, become diseased, or are damaged;
 - ii. Maintenance of protective measures for young trees, shrubs and vegetation;
 - iii. Maintenance of means of enclosure;
 - iv. Maintenance of and installation of drainage and/or means of impoundment of water;
 - v. Management and control of vegetation growth by mowing, cutting or other means as appropriate.
 - vi. Management and maintenance of calcareous grassland and other habitats
 - vii. A nature conservation compliance record statement
- o) A mechanism for annual review

39. **Nature Conservation**
The LEMP shall be reviewed and updated on an annual basis. An Annual LEMP report shall evaluate the restoration and aftercare works carried out in the previous year, assess requirements over the forthcoming year and provide details of management prescriptions and actions for the forthcoming year in terms of priority habitats. The Annual LEMP Report shall state the biodiversity loss and gain during the previous 12 month period. The Annual LEMP shall be submitted in writing to the Mineral Planning Authority within twelve months of the date of the commencement of development and then on an annual basis for the life of the development including the restoration and aftercare period. The Annual LEMP shall be provided within 14 days prior to the annual LEMP meeting as required by Condition No. 40.
40. **Nature Conservation**
Unless otherwise agreed in writing with the Mineral Planning Authority, a Landscape and Ecological, Habitats and Aftercare Management meeting shall take place annually to monitor the progress of the restoration and habitat management on site.
41. **Nature Conservation**
Prior to the commencement of development, Biosecurity Risk Assessment shall be submitted to and approved in writing by the Mineral Planning Authority. The development shall proceed strictly in accordance with those details as approved.
42. **Nature Conservation**
Prior to the commencement of development a scheme of Reasonable Avoidance Measures for Peregrine Falcon shall be submitted to the Mineral Planning Authority for written approval. The approved reasonable avoidance measures shall be carried out in full for the life of the development.
43. **Hydrology/Hydrogeology**
Prior to the commencement of development (including, soil stripping, ground works, vegetation clearance) in each phase as defined by Condition No.7, a scheme of dewatering shall be submitted to the MPA for approval, the approved scheme shall be implemented in full for the life of the development
44. **Public Rights of Way**
Within three months of the commencement of development, a scheme to facilitate footpath improvements shall be submitted to the Mineral Planning Authority for written approval. The approved scheme shall be implemented for the life of the development.
45. **Restoration**
Prior to the commencement of restoration within each phase, a detailed scheme of phased restoration of the site shall for each phase of the development shall be submitted to the Mineral Planning Authority for approval. The scheme shall provide for the following matters:
a) The restoration of each phase of the development as undertaken in accordance with such details as may be approved under Condition No. 10 above, including treatment of quarry benches and faces, spreading of overburden and soils, fertilisation of the soils, seeding, planting and drainage, location of fences and field boundaries, access tracks and field water supply systems.
b) The final treatment of the quarry floor and haul roads, the removal of plant, structures, buildings, equipment, machinery, scrap and refuse, foundations, roadways, hardstandings, pipework, lagoons, signs and storage mounds except where any of these are required for the purposes of restoration, development and management of the Site for nature conservation purposes or to maintain third party access;
c) Identification of the species or habitat type of flora and fauna for which provision is to be made in the restoration, development and management of the Site;
d) Description of the habitat appropriate for each species or habitat type and of how each habitat is to be created, such details to include the timing within the overall phasing of the restoration works;

- e) Location and extent;
 - i. Contouring to create an appropriate landform;
 - ii. Surface treatment, including ripping or scarification of rock surface; the quantity, depth and nature (including physical and chemical properties) of the soil-forming materials to be used on the restoration areas; the machinery and surface treatment techniques to
 - i. be used to place the forming soil materials on the restoration areas;
 - iii. the Application of fertiliser and/or mineral dressing where appropriate;
 - iv. Drainage works, including the formation of wet areas and/or ponds;
 - v. Seeding and planting, including means of protection of young vegetation;
 - vi. Means of enclosure
- f) An outline aftercare scheme.

The progressive restoration of the Site shall be carried out in accordance with the scheme as submitted under this condition and approved by the Mineral Planning Authority and in accordance with any subsequent amendments to the scheme that are agreed in writing by the Mineral Planning Authority.

- 46. **Restoration**
Written notification of the completion of restoration within each phase of the development as approved under Condition No. 45 above shall be given to the Mineral Planning Authority within four (4) weeks of such completion.
- 47. **Restoration**
Notwithstanding the requirements of Condition No.46, all fixed and mobile plant, structures, erections, buildings, and infrastructure shall be removed from the Site within 12 months of the date of final cessation of working, except where they have been expressly incorporated for retention within the approved restoration scheme, or where it is necessary to retain third party rights of access on the main Site access road.
- 48. **Restoration**
Prior to the commencement of development in Phase 5 of the approved development, a final Detailed Restoration Plan shall be submitted which shall also include a post restoration land use management plan.
- 49. **Restoration**
In the event that mineral operations permanently cease prior to the extraction of all workable reserves within the approved development, a revised scheme of restoration to include details of restoration and timescale for the completion of the restoration works, shall be submitted for approval to the Mineral Planning Authority no later than six months from the date of the permanent final cessation of working (notification required under Condition No. 6) for the approval of the Mineral planning authority, and upon written approval, shall be fully implemented as approved.
- 50. **Restoration**
The aftercare of the restoration works undertaken within each phase of the development shall be carried out in accordance with such details as may be approved under Condition Nos. 38 and 45 above. The said aftercare shall commence upon the date of completion of each phase of restoration as notified to the Mineral Planning Authority under Condition Mo. 46 above, and shall continue throughout the lifetime of the development hereby permitted and for a period of five (5) years beyond the date of completion of the final phase of restoration.

The reasons for the conditions are:

- 1. To comply with Section 91(1) (b) of the Town and Country Planning Act, 1990 in the interests of amenity.
- 2. For the avoidance of doubt, to ensure that the development is carried out in accordance with the approved documents and to assist compliance monitoring.
- 3. For the avoidance of doubt, to ensure that the development is carried out in accordance with the approved documents and to assist compliance monitoring.

4. For the avoidance of doubt, to ensure that the development is carried out in accordance with the approved documents and to assist compliance monitoring.
5. For the avoidance of doubt and to comply with the requirements of Schedule 5 of the Town and Country Planning Act, to ensure certainty for the life of the development, define the life of this permission in accordance with the approved scheme, in a timely manner, in the interests of residential amenity, in the interests of landscape amenity.
6. In the interests of the restoration of the site, to ensure that the quarry is restored to the satisfaction of the Mineral Planning Authority in accordance with the approved scheme, and in a timely manner, in the interests of residential amenity in the interests of landscape amenity.
7. For the avoidance of doubt, to remain informed and manage the development effectively in accordance with the planning application, in the interests of restoration, protection of sites of biodiversity importance and in the interests of amenity
8. In order that the Mineral Planning Authority can monitor the output of the site. In the interests of highway safety and safeguarding the amenity of the residents of the local area.
9. In order that the Mineral Planning Authority can monitor the importation of restoration material. In the interests of highway safety and safeguarding the amenity of the residents of the local area.
10. For the avoidance of doubt, to remain informed and manage the development effectively in accordance with the planning application, in the interests of restoration, protection of sites of biodiversity importance and in the interests of amenity.
11. In the interests of landscaping and visual amenity.
12. In the interests of the restoration of the site and to ensure soil resources are protected.
13. In the interests of the restoration of the site and to ensure soil resources are protected.
14. In the interests of the restoration of the site and to ensure soil resources are protected.
15. In the interests of the restoration of the site and to ensure soil resources are protected.
16. In the interest of protection of the environment and water resources.
17. In the interest of protection of the environment and water resources.
18. For the avoidance of doubt, in the interests of highway safety
19. In the interests of highway safety and amenity of the area, and safeguarding the local environment, to prevent mud, limestone dust and products and debris being taken on to the public highway and to control the potential for the dispersal of slurry, dirty spray and dust from the site by quarry traffic and other passing vehicles.
20. In the interests of highway safety and amenity of the area, and safeguarding the local environment, to prevent mud, limestone dust and products and debris being taken on to the public highway and to control the potential for the dispersal of slurry, dirty spray and dust from the site by quarry traffic and other passing vehicles.
21. In the interests of highway safety and amenity of the area, and safeguarding the local environment, limestone dust and products and debris being taken on to the public highway.
22. To define the development and in accordance with the Town and Country Planning Act 1990, and to ensure that plant and machinery can be assessed for visual impact, and in the interests of amenity.
23. To protect the amenities of the locality from the effects of any noise arising from the development and to effectively manage and monitoring noise arising from the approved operations. To provide a mechanism for noise monitoring and mitigation, in the interests of the protection of amenity and health and well-being of the neighbouring population.
24. For the avoidance of doubt, and to define acceptable noise limits, to protect the amenities of the locality from the effects of any noise arising from the development. In the interests of the protection of amenity and health and well-being of the neighbouring population.
25. For the avoidance of doubt, and to define acceptable noise limits, to protect the amenities of the locality from the effects of any noise arising from the development. In the interests of the protection of amenity and health and well-being of the neighbouring population
26. To protect the amenities of the locality from the effects of any dust arising from the development, and to effectively manage and monitor dust arising from the approved operations. In the interests of the protection of amenity and health and well-being of the neighbouring population and to ensure that dust emissions from the site are controlled.
27. For the avoidance of doubt, interests of amenity and to minimise light pollution in the interests of nature conservation and protected species and to assess the impact on lighting should it be required in the future.

28. For the avoidance of doubt, to define the operational hours of the development hereby approved, and to protect the amenities of the occupiers of nearby properties.
29. To protect the amenities of the locality from the effects of blasting associated with the development. In the interests of amenity, health and well being of the neighbouring population and protection of property and to reduce the impact of blasting, and to define acceptable blast limits.
30. To protect the amenities of the locality from the effects of blasting associated with the development. In the interests of amenity, health and well being of the neighbouring population and protection of property and to reduce the impact of blasting.
31. To protect the amenities of the locality from the effects of blasting associated with the development. In the interests of amenity, health and well being of the neighbouring population and protection of property and to reduce the impact of blasting.
32. To protect the amenities of the locality from the effects of blasting associated with the development. In the interests of amenity, health and well being of the neighbouring population and protection of property and to reduce the impact of blasting.
33. To protect the amenities of the locality from the effects of blasting associated with the development. In the interests of amenity, health and well being of the neighbouring population and protection of property and to reduce the impact of blasting
34. In the interests of Archaeology and to secure preservation by a record of all archaeological remains which may be impacted by the development.
35. In the interests of Archaeology and to secure preservation by a record of all archaeological remains which may be impacted by the development.
36. In the interests of nature conservation and the conservation of European Protected Species and to ensure the most up to date survey information informs the ecological mitigation and management on the site.
37. In the interests of nature conservation and the conservation of European Protected Species and to ensure that an approved great crested newt Conservation Plan is implemented, which protects great crested newts affected by the development.
38. In the interests of the restoration of the site. To ensure restoration is carried out at the earliest opportunity in a phased manner. In the interests of visual amenity, wildlife conservation and biodiversity. To enable the site to be put to beneficial after-use.
39. In the interests of the restoration of the site. To ensure restoration is carried out at the earliest opportunity in a phased manner and to assist effective compliance monitoring and management. In the interests of visual amenity, wildlife conservation and biodiversity. To enable the site to be put to beneficial after-use.
40. In the interests of the restoration of the site. To ensure restoration is carried out at the earliest opportunity in a phased manner and to assist effective compliance monitoring and management. In the interests of visual amenity, wildlife conservation and biodiversity. To enable the site to be put to beneficial after-use.
41. In the interest of preserving ecological interests and protecting habitats and nature conservation from contamination and invasive species.
42. For the avoidance of doubt, in the interests of nature conservation, and the conservation of protected species.
43. In the interest of protection of the environment and water resources.
44. In the interest of public amenity and safe use of a public right of way and to improve the amenity of the public right of way.
45. In the interests of the restoration of the site, to ensure that restoration is carried out at the earliest opportunity, and to ensure that the quarry is restored to the satisfaction of the Mineral Planning Authority. In the interests of safeguarding the amenity of the residents of the local area, visual amenity, in the interests of nature conservation, and biodiversity. To enable the site to be put to beneficial after-use.
46. To assist compliance monitoring, in the interests of the restoration of the site, to ensure that restoration is carried out at the earliest opportunity, and to ensure that the quarry is restored to the satisfaction of the Mineral Planning Authority. In the interests of safeguarding the amenity of the residents of the local area, visual amenity, in the interests of nature conservation, and biodiversity. To enable the site to be put to beneficial after-use.
47. In the interests of the restoration of the site, to ensure that restoration is carried out at the earliest opportunity, and to ensure that the quarry is restored to the satisfaction of the Mineral Planning Authority. In the interests of safeguarding the amenity of the residents of the local

- area, visual amenity, in the interests of nature conservation, and biodiversity. To enable the site to be put to beneficial after-use
48. In the interests of the restoration of the site, and to ensure that the quarry is restored to the satisfaction of the Mineral Planning Authority. In the interests of safeguarding the amenity of the residents of the local area, visual amenity, in the interests of nature conservation, and biodiversity. To accommodate any unforeseen changes on site and to enable the site to be put to beneficial after-use.
 49. In the interests of the restoration of the site, and to ensure that the quarry is restored to the satisfaction of the Mineral Planning Authority. In the interests of safeguarding the amenity of the residents of the local area, visual amenity, in the interests of nature conservation, and biodiversity. To accommodate any unforeseen changes on site and to enable the site to be put to beneficial after-use.
 50. In the interests of the successful aftercare of the site, and to ensure that the quarry is managed and restored to the satisfaction of the Mineral Planning Authority. In the interests of safeguarding the amenity of the residents of the local area, visual amenity, in the interests of nature conservation, and biodiversity and to enable the site to be put to beneficial after-use.

This page is intentionally left blank

Agenda Item 6

WARD: Prestatyn Central

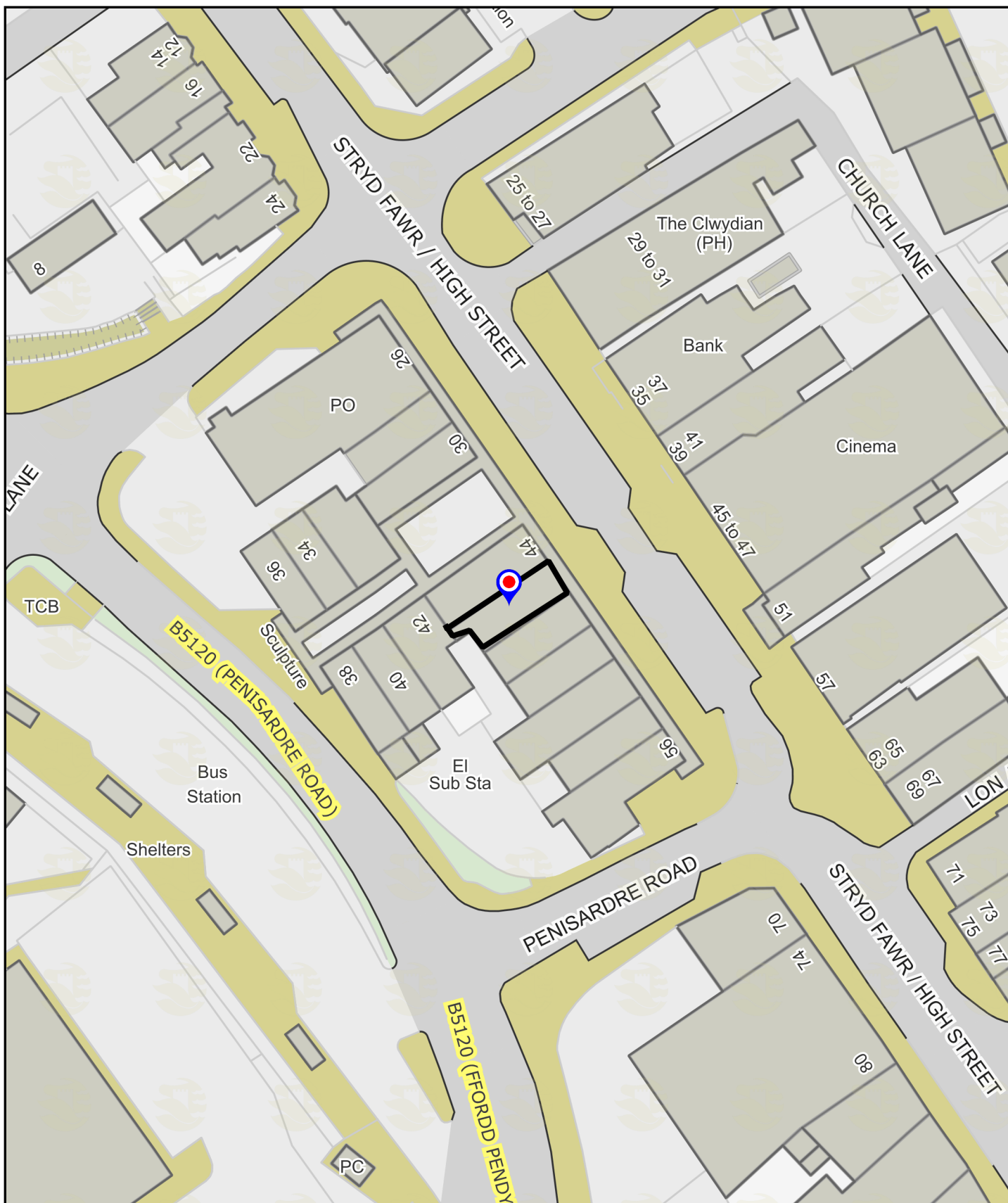
WARD MEMBER(S): Cllr Jon Harland (c)
Cllr Hugh Irving

APPLICATION NO: 43/2023/0363/ PF

PROPOSAL: Installation of perforated roller shutter to front elevation
(retrospective applicaiton)

LOCATION: 46 High Street, Prestatyn, LL19 9BB

This page is intentionally left blank



40-2023-0363

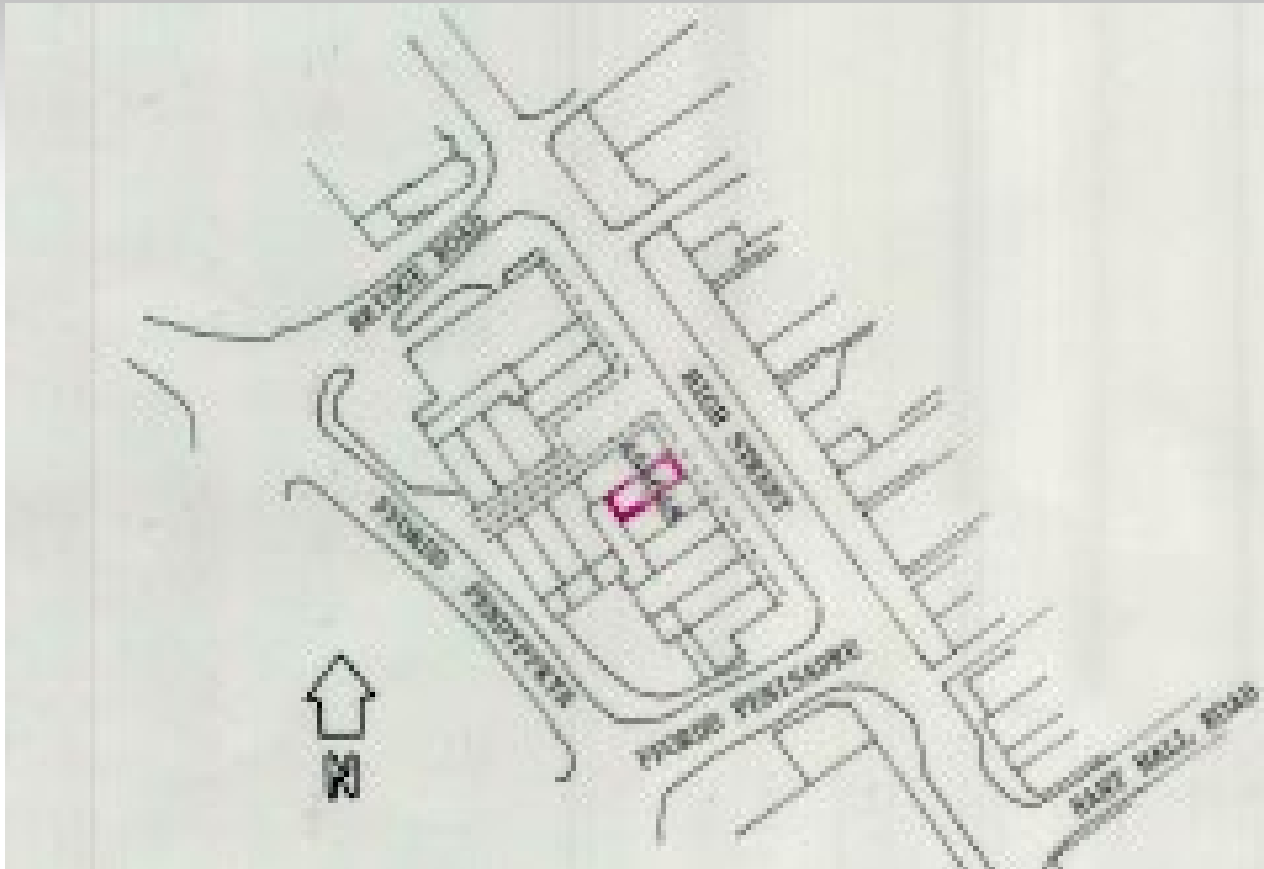
N Graddfa / Scale: 1:709

Canol / Centre: 306518, 382958

Dyddiad / Date: 2023-11-29 10:27:31

© Hawlfraint y Goron a hawliau cronfa ddata 2023 Arolwg Ordnans AC0000819894 © Crown copyright and database rights 2023 Ordnance Survey AC0000819894

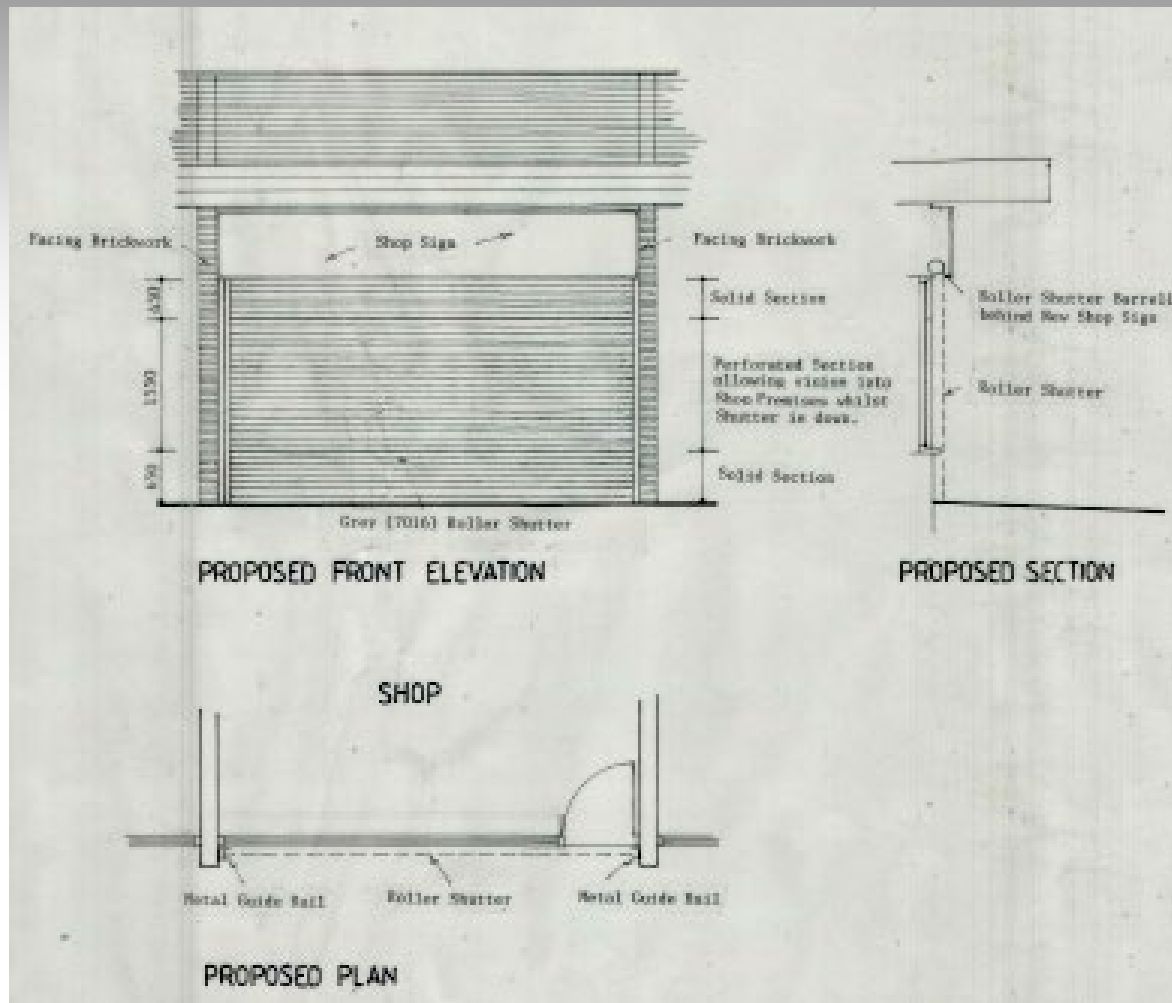




Site Location Plan



Existing building/elevations



Proposed plans/elevations

WARD: Prestatyn Central

WARD MEMBER(S): Cllr Jon Harland (c)
Cllr Hugh Irving

APPLICATION NO: 43/2023/0363/ PF

PROPOSAL: Installation of perforated roller shutter to front elevation
(retrospective applicaiton)

LOCATION: 46 High Street Prestatyn LL19 9BB

APPLICANT: MrMark Sugarman

CONSTRAINTS: C1 Flood Zone

PUBLICITY UNDERTAKEN: Site Notice - No
Press Notice - No
Neighbour letters - Yes

REASON(S) APPLICATION REPORTED TO COMMITTEE:
Scheme of Delegation Part 2

- Referral by Development Control Manager

CONSULTATION RESPONSES:

PRESTATYN TOWN COUNCIL

"OBSERVATIONS: Request that the roller shutter be painted in 'Prestatyn Green.'"

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES –

Conservation Officer

Whilst acknowledging the shop is a modern building outside of, but close to the conservation area, the Conservation Officer raises concerns over visual impact of roller shutter on the High Street and adjacent conservation area.

RESPONSE TO PUBLICITY: None.

EXPIRY DATE OF APPLICATION: 18/07/2023

EXTENSION OF TIME AGREED: 13/12/2023

REASONS FOR DELAY IN DECISION (where applicable):

- protracted negotiations resulting in amended plans.
- awaiting consideration by Committee

PLANNING ASSESSMENT:

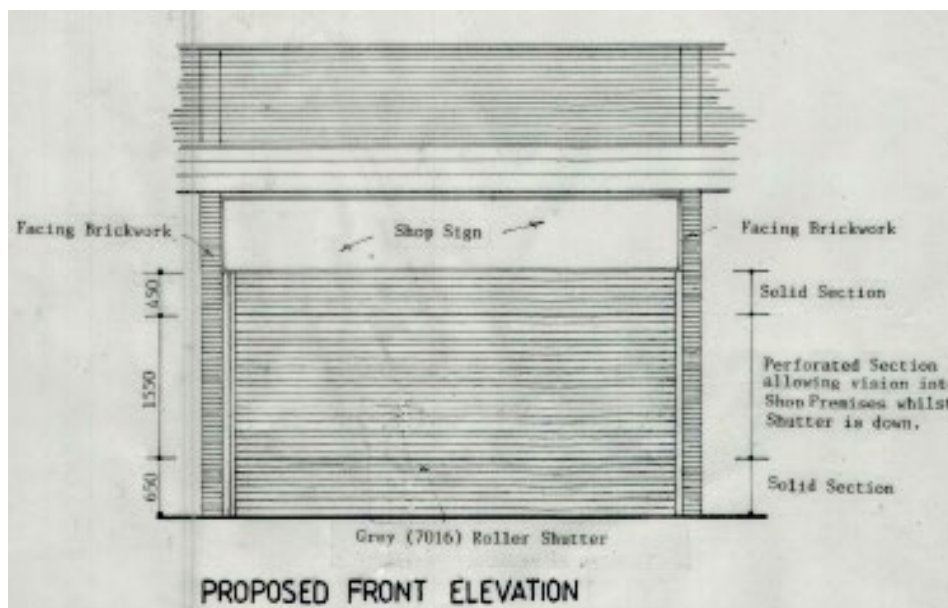
1. THE PROPOSAL:

1.1 Summary of proposals

1.1.1 The application proposes the retention of a perforated roller shutter to front elevation of no. 46 High Street, Prestatyn.

1.1.2 The roller shutter has been installed on the shopfront of Detour menswear shop. The shutter covers the shopfront with a 'see through perforated section' from cill level (650mm) up to 2200mm above ground level. The existing solid section extends up to 1050mm above ground level.

See plan snip not to scale and photo of shopfront and photo snip*



1.2 Other relevant information/supporting documents in the application.

1.2.1 The In support of the application the Agent has provided a justification statement.

1. The conservation area boundary has been clearly very carefully placed to exclude this parade of shops and indeed footway in front of it. It seems fairly obvious to me that the quality of this part of the town in terms of character and appearance is a far lower than those buildings and areas which fall within the conservation area. No doubt that was a key component in the choice and positioning of the conservation area boundaries at the point of designation

2. The Council has, as you know adopted, Supplementary Planning Guidance in respect of the design of shop fronts. This is not a completely solid roller shutter (as the central core is perforated and allows the passage of light through the building when it is closed). Furthermore, efforts have been made to integrate the shutter box behind the fascia, so it is not visible. A high quality external durable coloured material has been used to aid its integration into the rather plain functional and poor shopping parade.

In particular SPG states at-paragraph 10.4 their design should be integrated as far as possible into the shop front, it should be perforated to allow views into the shop and the colour should be appropriate to the building and area as a whole. As a general rule, all external shutters will require planning permission whereas internal systems do not.

My reading of this is that even solid roller shutters are capable of being granted planning permission in the county where that SPG is complied. The mitigation, including perforation and colour (and in this case, careful, sighting of the shutter box

behind the fascia) are measures which, to me, demonstrate where an applicant has made attempts to align with that.

I am also aware that the Shop retails very high-end designer clothing which is at high risk of theft were not properly secured and bringing a new high quality retail offer to the town other factors, such as vitality and viability equally weigh in as material considerations.

1.3 Description of site and surroundings

- 1.3.1 No. 46 is located on the western side of Prestatyn High Street within the 1970's shopping Precinct between Bridge Road and Penisardre Road. The Precinct is a single storey building comprising of a range of small shops with a central yard, cut through to the B5120 to the rear.
- 1.3.2 The site is located alongside a jeweller's shop and café. There is a roller shutter on the dual shopfront of the jewellers.
- 1.3.3 No. 46 was formally a homeware shop. It was reopened as Detour menswear in Summer 2023.

See photo snip of the Precinct from the south



1.4 Relevant planning constraints/considerations

- 1.4.1 The site is located within the development boundary of Prestatyn.
- 1.4.2 The site is not within the Conservation Area, but the Conservation Area boundary runs along on the opposite side of the High Street.

1.5 Relevant planning history

- 1.5.1 There is no planning history on the site.

1.6 Developments/changes since the original submission

- 1.6.1 The application has been amended slightly since its original submission in May. The perforated central area was introduced. The shutter was also installed when the use commenced, hence the application is retrospective now.

1.7 Other relevant background information

- 1.7.1 None.

2. **DETAILS OF PLANNING HISTORY:**

- 2.1 N/A

3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

Local Policy/Guidance

Denbighshire Local Development Plan (adopted 4th June 2013)

Policy RD1 – Sustainable development and good standard design

Policy BSC1 – Growth Strategy for Denbighshire

Policy PSE6 – Retail economy

Policy PSE8 – Development within town centres

Supplementary Planning Guidance

Supplementary Planning Guidance Note: Shop Fronts

Government Policy / Guidance

Planning Policy Wales (Edition 11) February 2021 Chapter 6 updated October 2023

Development Control Manual November 2016

Future Wales – The National Plan 2040

4. MAIN PLANNING CONSIDERATIONS:

In terms of general guidance on matters relevant to the consideration of a planning application, Section 9.1.2 of the Development Management Manual (DMM) confirms the requirement that planning applications 'must be determined in accordance with the approved or adopted development plan for the area, unless material considerations indicate otherwise'. It advises that material considerations must be relevant to the regulation of the development and use of land in the public interest, and fairly and reasonably relate to the development concerned.

The DMM further states that material considerations can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment (Section 9.4).

The DMM has to be considered in conjunction with Planning Policy Wales, Edition 11 (February 2021) and other relevant legislation.

Denbighshire County Council declared a climate change and ecological emergency in July 2019. In October 2020 the Council approved an amendment of its Constitution so that all decisions of the Council now have regard to tackling climate and ecological change as well as having regard to the sustainable development principles and the well-being of future generations.

The Council aims to become a Net Carbon Zero Council and an Ecologically Positive Council by 31 March 2030. Its goal and priorities are set out in its Climate and Ecological Change Strategy 2021/22 to 2029/30. The actions, projects and priorities in the Strategy directly relate to council owned and controlled assets and services. One priority of the Strategy is to promote the existing policies within the Local Development Plan (LDP) 2006 to 2021 and Supplementary Planning Guidance (SPG) which contribute to environmentally responsible development. In preparing these reports to determine planning applications we therefore highlight the LDP 2006 to 2021 and appropriate SPG. Applications that are determined in accordance with the LDP 2006 to 2021 are environmentally responsible developments.

Planning applications are assessed in accordance with statutory requirements including The Environment (Wales) Act 2016, national policy (Future Wales, PPW 11) and local policy (LDP 2006 to 2021) and therefore they are assessed with regard to tackling climate and ecological change which is a material consideration.

The following paragraphs in Section 4 of the report therefore refer to all statutory requirements, policies and material planning considerations which are considered to be of relevance to the proposal.

4.1 The main land use planning issues in relation to the application are considered to be:

4.1.1 Principle

4.1.2 Visual amenity

4.1.3 Security/Need

4.2 In relation to the main planning considerations:

4.2.1 Principle

The site is located on a property within the development boundary of Prestatyn where new development will, in principle, be supported provided that it meets the criteria of other policies in the Local Development Plan and material planning considerations.

Whilst the PSE 8 town centre allocation is noted, it of limited relevance to this type of application, being more applicable to changes of use.

The Council has created guidelines for shopfronts in SPG Shopfronts. The SPG acknowledges that there is no formal development plan policy relating to shop fronts. However, the broad thrust of the Council's approach is to provide well designed shop fronts to match particular local circumstances, which vary across the County. This note is primarily concerned with the traditional shop fronts found in many of the County's town and village centres although the guidance will also be generally applicable to shop fronts in modern shopping precincts.

Officers consider that the assessment of the application lies in the detailed impacts as set out in the following sections.

4.2.2 Visual amenity

Local Development Plan Policy RD 1 test (i) requires due regard to issues of siting, layout, form, character, design, materials, aspect, microclimate and intensity of use of land / buildings and spaces between buildings, which are matters relevant to the visual impact of development.

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment; and the effects of a development on, for example, health, public safety and crime. The visual amenity and landscape impacts of development should therefore be regarded as a potential material consideration.

SPG Shopfronts makes specific reference to shutters on shopfronts, stating "often a shutter is necessary as it is a requirement of insurance companies or because of the nature and location of the business. If this is the case an internal lattice grill or shutter will be the preferred option. Depending on the nature and value of goods on display in the shop front it may be possible to locate a lattice shutter behind the window display particularly in those areas where CCTV is in operation. Lattice designs will enable night time window shopping, internal inspection by the police and contribute to an attractive night time environment."

It goes on to say that, "a solid shutter is not recommended by the police as it does not allow the internal space to be viewed. External solid roller shutters are by far the worst option. They obscure architectural detail and invite graffiti which contributes to the overall portrayal of decline. If so, their design should be integrated as far as possible into the shop front, it should be perforated to allow views into the shop and the colour should be appropriate to the building and area as a whole."

The Conservation Officer was consulted on the application owing to the proximity to the Conservation Area. He raised concerns owing to the visual impact of the shutter on the character and appearance of the town centre generally.

The application initially sought permission for a solid shutter, following consultation and on review Officers requested an internal shutter be considered. This was deemed unacceptable by the Applicant/Agent and the perforated option put forward as a compromise. This has been installed since.

The starting point in the assessment of the application is the context. The site is located within the town centre of Prestatyn, the majority of which is within the High Street Conservation area. Most properties in the High Street Conservation area are Victorian and Edwardian in character. Opposite the site the former Midland Bank at no. 35 High Street was noted as an important building in the Conservation Area Appraisal Document. The High Street itself separates the Precinct from the Conservation Area, presumably because the Precinct shopping building in which no. 46 is located is a much later addition to the High Street, and an unremarkable building in comparison to its historic neighbours.

The Council's Town Centre Health Check carried out as part of LDP monitoring identifies Prestatyn as the principal retail centre for Denbighshire, with good convenience goods offer and consistent occupancy levels. Anecdotally it also would appear that Prestatyn High Street is not in decline. There is continued investment in the High Street, most recently no. 35 High Street has just been renovated in an appropriate and sensitive manner.

Within the Precinct there are a range of shops from small independents to charity shops, and the café to the south of no. 46. There is no uniformity in shopfronts, with a variety of shop front designs, layouts and signage styles. It is noted that the jewellers shop to the next door (to the north) of no. 46 has a recessed shopfront, hence the requirement for shutters to the dual frontage. The jeweller's shutters are semi-perforated and white in colour.

No. 46 now comprises of Detour menswear, it has a painted shopfront, in a dark grey shade with matching grey fascia sign. The shutter casing (barrel) is behind the fascia which is attached to the flat roof canopy that runs along the front of the Precinct. The shutter is a similar dark shade, and partially perforated as can be seen in the photo above. The photo was taken in the evening to see the effect of the shutter closed and light distribution.

Officers are aware of SPG guidance and concur that shutters can have a negative effect on a property, obscuring architectural detail and inviting graffiti which contribute to an overall portrayal of decline. It is also generally acknowledged that solid shutters result in a dead street frontage and can encourage anti-social behaviour and feelings of unease. However, this shutter is partially perforated, and well-integrated into the fascia as encouraged by SPG.

The wider visual impacts are noted, and the potential for a further precedent to be established also has to be considered. As set out above the site bounds the High Street Conservation Area, and there are significant historic buildings in the vicinity of the site. It could be argued that if permitted an additional shuttered shopfront, alongside the adjacent jewellers would create a more mixed and therefore disjointed street scene (particularly in the evening). Conversely owing to its perforation and colour in relation to the shopfront and the fascia, it could be said that the shutter blends in with the shopfront and therefore has a neutral effect on the immediate street scene, particularly in comparison with the white shutter on the jeweller's.

A concern is whether permitting this shutter set a precedent for other shops within the Precinct to attach shutters, as this would have a significant cumulative impact. However, Officers have to be mindful of dealing with each case on its own merits so can attach limited weight to the issue of precedent. To this end a condition can also be attached to require the removal of the shutter should the current use cease or operator leave the site.

Officers consider the visual impact of the shutter to be very finely balanced between the principle of shutters per se, and the visual impact of this shutter on the character and appearance of what is a healthy High Street and attractive area, against the omission of the Precinct from the Conservation area designation, the unremarkable

appearance of the Precinct and No. 46, and the relatively neutral impact of the shutter on the host building given its specific design. Whilst not ideal Officers judge it would be difficult to argue that the roller shutter would result in a significant enough harm to the character and appearance of the immediate area in which it is proposed to be retained to warrant refusal.

4.2.3 Need/Security

Local Development Plan Policy RD 1 test (xii) requires account to be taken of personal and community safety and security in the design and layout of development and public and private spaces, and to have regard to implications for crime and disorder.

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment, and the effects of a development on, for example, health, public safety and crime.

It is understood that the shutter on the adjacent jewellers was permitted historically owing to the unique design of the recessed shopfront making it prone to vandalism and theft and nature of the goods on sale. The latter (i.e., security of high value items) is part of the argument used to justify this shutter at no. 46, although specific evidence has not been provided to support this claim.

The effect on shutters on the general public is also considered, as mentioned above because shutters can have an impact on public perception and anti-social behaviour in an area.

Concluding on the need and security issue, the design of the shutters would provide the requisite security for the shop. The perforation allows light through and a slightly more active frontage than a fully shuttered frontage. Therefore, it is not considered there would be policy conflicts in terms of crime and disorder.

Other matters

The Town Council have suggested an alternative colour for the shutter, known as Prestatyn Green. With respect to the Town Council Officers consider that the decision should be based on the proposal as submitted and now installed. Also given the colour of the shopfront the matching shade goes some way to lessen the visual impact.

Well – being of Future Generations (Wales) Act 2015

The Well-being of Future Generations (Wales) Act 2015 imposes a duty on the Council not only to carry out sustainable development, but also to take reasonable steps in exercising its functions to meet its sustainable development (or well-being) objectives. The Act sets a requirement to demonstrate in relation to each application determined, how the development complies with the Act.

The report on this application has taken into account the requirements of Section 3 'Well-being duties on public bodies and Section 5 'The Sustainable Development Principles' of the Well-being of Future Generations (Wales) Act 2015. The recommendation is made in accordance with the Act's sustainable development principle through its contribution towards Welsh Governments well-being objective of supporting safe, cohesive and resilient communities. It is therefore considered that there would be no significant or unacceptable impact upon the achievement of well-being objectives as a result of the proposed recommendation.

Equality Act 2010

The Equality Act 2010 identifies a number of 'protected characteristics', namely age;

disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation. A public authority must, in the exercise of its functions, have due regard to advancing equality.

Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics.
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

The above duty has been given due consideration in the determination of this application. It is considered that the proposed development does not have any significant implications for, or effect on, persons who share a protected characteristic, over and above any other person.

5. SUMMARY AND CONCLUSIONS:

5.1 As the application presents some issues which have to be carefully considered and finely balanced. Officers consider that based on the information submitted and the revised details of the shutters that the proposal is acceptable.

RECOMMENDATION: GRANT - subject to the following conditions:

1. 1. The development hereby permitted shall be carried out in strict accordance with details shown on the following submitted plans and documents unless specified as otherwise within any other condition pursuant to this permission:
 - (i) Existing Site, Floor and Elevation Plans (Drawing No. 3427/1/MAY/2023) - Received 24 May 2023
 - (ii) Revised Proposed Site, Floor Elevation Plans (Revised Drawing No. 3427/1/MAY/2023) - Received 08 September 2023
2. Should the use of the site by Detour Menswear cease and the unit become vacant the roller shutter shall be removed and the shopfront and fascia reinstated to its original appearance.

The reasons for the conditions are:

1. For the avoidance of doubt and to ensure a satisfactory standard of development.
2. In the interests of visual amenity.

Agenda Item 7

WARD: Rhyl South West

WARD MEMBER(S): Cllr Diane King

APPLICATION NO: 45/2023/0435/ PF

PROPOSAL: Change of use of part of existing nursery to form one dwelling and associated works

LOCATION: 157 Vale Road, Rhyl LL18 2PH

This page is intentionally left blank



45-2023-0435



N Graddfa / Scale: 1:500

Canol / Centre: 301606, 380924

Dyddiad / Date: 2023-11-29 10:17:23

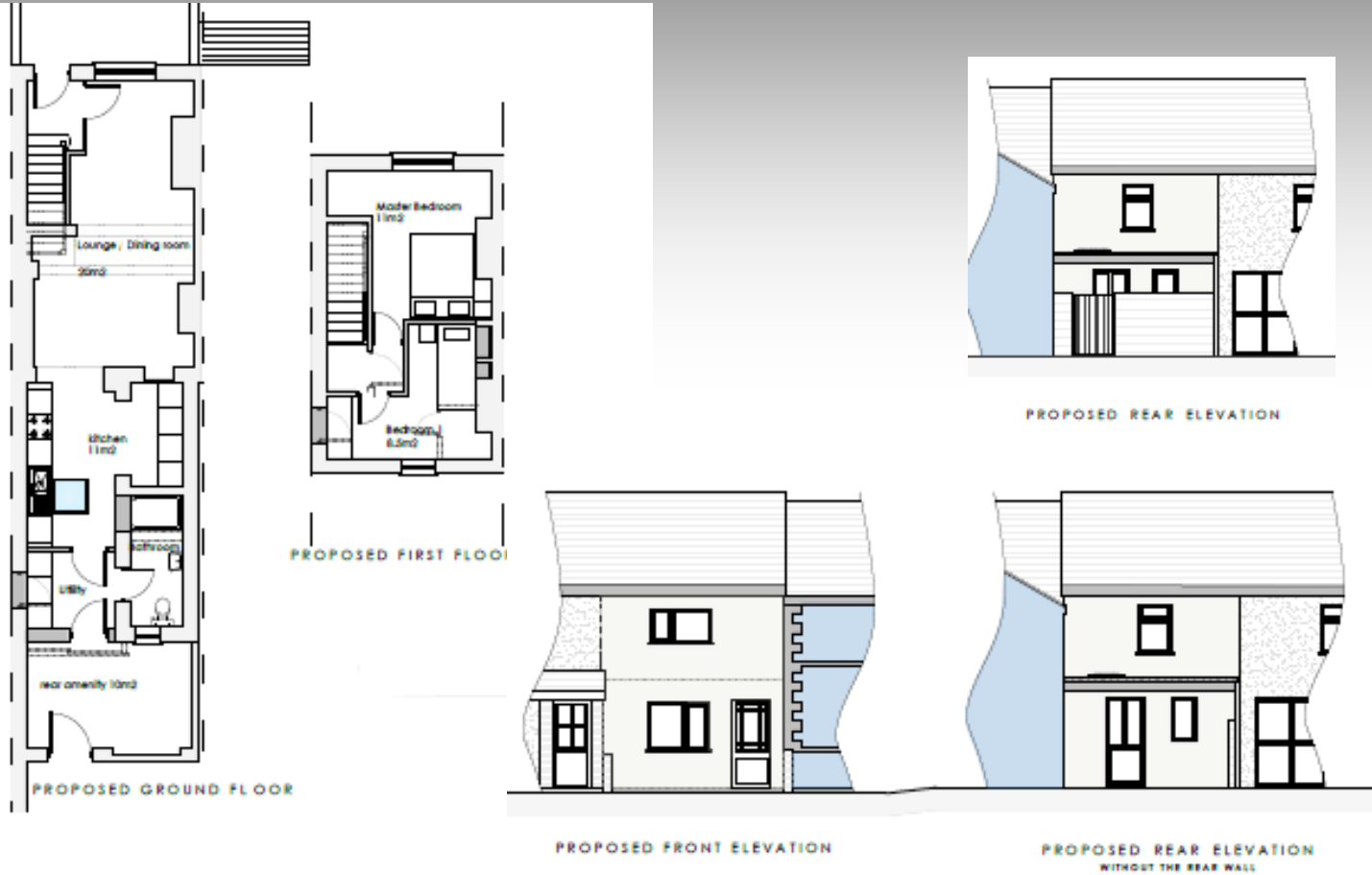
© Hawlfraint y Goron a hawliau cronfa ddata 2023 Arolwg Ordnans AC0000819894 © Crown copyright and database rights 2023 Ordnance Survey AC0000819894



Location Plan



Existing building/elevations



Proposed floorplan and elevations

WARD: Rhyl South West

WARD MEMBER(S): Cllr Diane King

APPLICATION NO: 45/2023/0435/ PF

PROPOSAL: Change of use of part of existing nursery to form one dwelling and associated works

LOCATION: 157 Vale Road, Rhyl, LL18 2PH

APPLICANT: Mr Chris Walsh, Walsh Commercial Properties

CONSTRAINTS: C1 Flood Zone

PUBLICITY UNDERTAKEN: Site Notice - No
Press Notice - No
Neighbour letters - Yes

REASON(S) APPLICATION REPORTED TO COMMITTEE:

Scheme of Delegation Part 2

- Member request for referral to Committee

CONSULTATION RESPONSES:

RHYL TOWN COUNCIL
No objection

NATURAL RESOURCES WALES

Objects to the proposed development as submitted and considers that the Flood Consequence Assessment (FCA) submitted is insufficient and fails to demonstrate that the consequences of flooding can be acceptably managed over the development lifetime. Further detail of NRW's assessment and conclusion is contained later in this report.

NRW advise that if the Council is minded to grant planning permission, NRW should be informed of all matters that influence this decision prior to granting permission.

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES –
Traffic, Parking and Road Safety:

- Highways Officer
No objection

RESPONSE TO PUBLICITY: None

EXPIRY DATE OF APPLICATION: 27/08/2023

EXTENSION OF TIME AGREED: 13/12/2023

REASONS FOR DELAY IN DECISION (where applicable):

- additional information required from applicant

PLANNING ASSESSMENT:

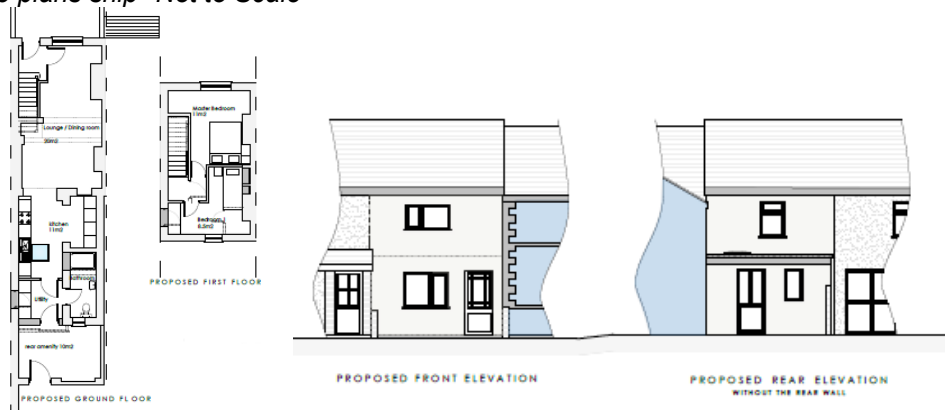
1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 The application proposes the change of use of part of existing nursery to form one dwelling and associated works at 157 Vale Road in Rhyl.

- 1.1.2 Plans submitted in support of the application show minimal external alterations proposed, the French doors to the rear would be replaced by a single door and window. The internal layout would be altered to create rooms within the relatively open plan space. On the ground floor a living room, kitchen, utility and bathroom are proposed, with 2 bedrooms above.
- 1.1.3 Plans show the walled rear yard to remain as existing, it would be accessed from a lane to the side of the site.

See plans snip Not to Scale*



1.2 Other relevant information/supporting documents in the application

- 1.2.1 The application was supported by an FCA from KRS Enviro.
- 1.2.2 The application forms state that the current use of the site is part of the adjacent Childrens Nursery known as Hannahs House Day Nursery/ Sams Learning Tree. The children's day nursery is registered for a total of 84 children, 18 of which have been in this section of the building.

1.3 Description of site and surroundings

- 1.3.1 The application site located within a terrace fronting the eastern side of Vale Road on the approach to Rhyl town centre. No. 157 is an existing two story detached property.
- 1.3.2 The property is set back from the road with a small garden area to the front bounded by a low brick wall. Access to the rear of the site is via a lane to the rear. Within the rear curtilage there is a small yard bounded by a 2 metre high wall.

*See photo snip of site frontage (LHS property painted blue)**



1.4 Relevant planning constraints/considerations

- 1.4.1 The site is located within the development boundary of Rhyl.

1.4.2 It is also within a C1 floodzone as defined by the DAM maps of TAN 15 Development and Flood Risk.

1.5 Relevant planning history

1.5.1 Planning permission was granted in 2005 for change of use from residential to part of the adjacent nursery.

1.6 Developments/changes since the original submission

1.6.1 Additional information was requested after the original consultation to address Flood Risk issues raised by NRW. An additional commentary to FCA was submitted by KRS to support the application.

1.7 Other relevant background information

1.7.1 The application is being considered by Planning Committee on the request of Cllr King.

2. DETAILS OF PLANNING HISTORY:

2.1 45/2004/1591 Change of use of existing dwellinghouse to create extension to existing day nursery (Class D1) incorporating single-storey rear extension and alterations to vehicular access/parking area. Granted 24/03/2005

3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

Local Policy/Guidance

Denbighshire Local Development Plan (adopted 4th June 2013)

Policy RD1 – Sustainable development and good standard design

Policy BSC1 – Growth Strategy for Denbighshire

Policy BSC3 – Securing infrastructure contributions from Development

Policy BSC7 – Houses in multiple occupation and self-contained flats

Policy BSC11 – Recreation and open space

Policy VOE5 – Conservation of natural resources

Policy ASA3 – Parking standards

Supplementary Planning Guidance

Supplementary Planning Guidance Note: Residential Development

Government Policy / Guidance

Planning Policy Wales (Edition 11) February 2021 Chapter 6 updated October 2023

Development Control Manual November 2016

Future Wales – The National Plan 2040

Technical Advice Notes

TAN 5 Nature Conservation and Planning (2009)

TAN 15 Development and Flood Risk (2004)

4. MAIN PLANNING CONSIDERATIONS:

In terms of general guidance on matters relevant to the consideration of a planning application, Section 9.1.2 of the Development Management Manual (DMM) confirms the requirement that planning applications 'must be determined in accordance with the approved or adopted development plan for the area, unless material considerations indicate otherwise'. It advises that material considerations must be relevant to the regulation of the development and use of land in the public interest, and fairly and reasonably relate to the development concerned. The DMM further states that material considerations can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment (Section 9.4).

The DMM has to be considered in conjunction with Planning Policy Wales, Edition 11 (February 2021) and other relevant legislation.

Denbighshire County Council declared a climate change and ecological emergency in July 2019. In October 2020 the Council approved an amendment of its Constitution so that all decisions of the Council now have regard to tackling climate and ecological change as well as having regard to the sustainable development principles and the well-being of future generations.

The Council aims to become a Net Carbon Zero Council and an Ecologically Positive Council by 31 March 2030. Its goal and priorities are set out in its Climate and Ecological Change Strategy 2021/22 to 2029/30. The actions, projects and priorities in the Strategy directly relate to council owned and controlled assets and services. One priority of the Strategy is to promote the existing policies within the Local Development Plan (LDP) 2006 to 2021 and Supplementary Planning Guidance (SPG) which contribute to environmentally responsible development. In preparing these reports to determine planning applications we therefore highlight the LDP 2006 to 2021 and appropriate SPG. Applications that are determined in accordance with the LDP 2006 to 2021 are environmentally responsible developments.

Planning applications are assessed in accordance with statutory requirements including The Environment (Wales) Act 2016, national policy (Future Wales, PPW 11) and local policy (LDP 2006 to 2021) and therefore they are assessed with regard to tackling climate and ecological change which is a material consideration.

The following paragraphs in Section 4 of the report therefore refer to all statutory requirements, policies and material planning considerations which are considered to be of relevance to the proposal.

4.1 The main land use planning issues in relation to the application are considered to be:

- 4.1.1 Principle
- 4.1.2 Visual amenity
- 4.1.3 Residential amenity
- 4.1.4 Ecology
- 4.1.5 Drainage (including flooding)
- 4.1.6 Highways (including access and parking)
- 4.1.7 Open Space

4.2 In relation to the main planning considerations:

4.2.1 Principle

The main Local Development Plan Policy relevant to the principle of the development is Policy BSC 1. This policy seeks to make provision for new housing in a range of locations, concentrating development within development boundaries of towns and villages. It encourages provision of a range of house sizes, types and tenure to reflect local need and demand and the Local Housing market assessment.

The site is located within the development boundary of Rhyl which is defined as a lower growth town in the LDP. The vision of the adopted Local Development Plan is to make Rhyl an attractive place to live and work with improved housing stock and a reduction in the levels of multiple deprivation currently seen.

Policy RD1 advises that proposals should i) be suitable for their location, vi) not impact negatively on the character of the area and ix) should have regard to the adequacy of existing public facilities and services in the area.

There is no policy ground to resist the principle of a change of use of part of an existing nursery to residential use. Officers suggest the acceptability of the proposal therefore has to rest on assessment of the local impacts and constraints which are reviewed within the following sections of the report.

4.2.2 Visual amenity

Local Development Plan Policy RD 1 test (i) requires due regard to issues of siting, layout, form, character, design, materials, aspect, microclimate and intensity of use of

land / buildings and spaces between buildings, which are matters relevant to the visual impact of development; test (vi) requires that development does not unacceptably affect prominent public views into, out of, or across any settlement or area of open countryside; test (vi) requires the incorporation of existing landscape or other features, takes account of site contours, and changes in levels and prominent skylines; and test (xiii) requires the incorporation of suitable landscaping measures to protect and enhance development in its local context.

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment; and the effects of a development on, for example, health, public safety and crime. The visual amenity and landscape impacts of development should therefore be regarded as a potential material consideration.

The application proposes very minor external alterations, the most notable of which is to the rear. It would remain as existing in appearance to the main Vale Road frontage.

The proposal is therefore considered acceptable in relation to the visual amenity policies and guidance listed above.

4.2.3 Residential amenity

Local Development Plan Policy RD 1 test (i) requires due regard to issues of siting, layout, form, character, design, materials, aspect, microclimate and intensity of use of land / buildings and spaces between buildings, which touch on the potential for impact on residential amenity; test (vi) sets the requirement to assess the impact of development on the amenities of local residents, other land and property users, or characteristics of the locality, in terms of increased activity, disturbance, noise, dust, fumes, litter, drainage, light pollution, etc..

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment; and the effects of a development on, for example, health, public safety and crime. The residential amenity impacts of development should therefore be regarded as a potential material consideration.

The proposed dwelling would be a two bed property. It would meet current floor space standards in terms of internal arrangements and layout. Whilst external space at only 10 metres² is somewhat lacking, it is comparable with adjacent dwellings on the terrace, and the site is also located within 5 minutes walk of open space at the Coronation Gardens. The rear curtilage is private and bounded by an access lane to the east. The recent history of the residential use is also noted.

The acceptability of the residential use in relation to the amenity of the proposed occupiers being attached to the nursery has been tested with the original application and the relationship to the neighbours at no. 155 and deemed acceptable. The proposed situation would be no different/

The proposal is therefore considered acceptable in relation to the residential amenity policies and guidance listed above.

4.2.4 Ecology

Local Development Plan Policy RD 1 test (iii) requires development to protect and where possible to enhance the local natural and historic environment.

Policy VOE 5 requires due assessment of potential impacts on protected species or designated sites of nature conservation, including mitigation proposals, and suggests

that permission should not be granted where proposals are likely to cause significant harm to such interests.

This reflects policy and guidance in Planning Policy Wales (PPW 11) which was updated in October 2023 by the publication of an amended Chapter 6 – Distinctive and Natural Places. Section 6.4 'Biodiversity and Ecological Networks', current legislation and the Conservation and Enhancement of Biodiversity SPG stress the importance of the planning system in meeting biodiversity objectives through promoting approaches to development which create new opportunities to enhance biodiversity, prevent biodiversity losses, or compensate for losses where damage is unavoidable.

Planning Policy Wales (PPW 11) sets out that *"planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means development should not cause any significant loss of habitats or populations of species (not including non native invasive species), locally or nationally and must work alongside nature and it must provide a net benefit for biodiversity and improve, or enable the improvement, of the resilience of ecosystems"* (Section 6.4.5).

Planning Policy Wales (PPW 11) also draws attention to the contents of Section 6 of the Environment (Wales) Act 2016, which sets a duty on Local Planning Authorities to demonstrate they have taken all reasonable steps to maintain and enhance biodiversity in the exercise of their functions. It is important that biodiversity and resilience considerations are taken into account at an early stage when considering development proposals (Section 6.4.4).

The updated Chapter 6 of PPW 11 introduces policy changes relating to green infrastructure, net benefits for biodiversity and the Step-Wise Approach, protection for Sites of Special Scientific Interest (SSSI) and Trees and Woodlands.

- **Green Infrastructure**
A stronger emphasis on taking a proactive approach to green infrastructure covering cross boundary considerations, identifying key outputs of green infrastructure assessments and the submission of proportionate green infrastructure statements with planning applications.
- **Net Benefit for Biodiversity and the Step-wise Approach**
Further clarity is provided on securing net benefit for biodiversity through the application of the step-wise approach, including the acknowledgement of off-site compensation measures as a last resort, and, the need to consider enhancement and long-term management at each step. A number of factors will affect the implementation of the step-wise approach, pre-emptive site clearance works should not be undertaken however if this does occur its biodiversity value should be deemed to have been as it was before any site investigations or clearance took place and a net benefit for biodiversity must be achieved from that point.
- **Protection for Sites of Special Scientific Interest (SSSI)**
Protection is strengthened with increased clarity on the position for site management and exemptions for minor development necessary to maintain a 'living landscape.
- **Trees and Woodlands**
A closer alignment with the stepwise approach, along with promoting new planting as part of development based on securing the right trees in the right place.

Future Wales – The National Plan 2040 (2021) Policy 9 advises that 'In all cases, action towards securing the maintenance and enhancement of biodiversity (to provide a net benefit), the resilience of ecosystems and green infrastructure assets must be demonstrated as part of development proposals through innovative, nature based approaches to site planning and the design of the built environment'. It is therefore recommended that these are included and form part of any planning application.

The proposal would result in very minor alterations to an existing property within the development boundary. It was submitted before the Chapter 6 amendments. However it is noted that there would be no change to the site layout or services. It is not supported by an ecology survey.

PPW states that all new developments should demonstrate a biodiversity enhancement. It is suggested that a condition could ensure that biodiversity enhancement will be provided at the site as a result of the development. It is therefore considered subject to a condition, that the proposals are in line with the advice contained in PPW 11 and would provide enhancement measures to increase the biodiversity net gain at the site.

4.2.5 Drainage (including flooding)

Local Development Plan Policy RD 1 test (xi) requires that development satisfies physical or natural environmental considerations relating to drainage and liability to flooding.

Planning Policy Wales confirms that factors to be taken into account in making planning decisions (material considerations) must be planning matters; that is, they must be relevant to the regulation of the development and use of land in the public interest, towards the goal of sustainability. The drainage / flooding impacts of a development proposal are a material consideration.

Planning Policy Wales (PPW 11) Section 6.6.22 to 6.6.29 identifies flood risk as a material consideration in planning and along with TAN 15 – Development and Flood Risk, which provides a detailed framework within which risks arising from different sources of flooding should be assessed.

TAN 15 advises that in areas which are defined as being of high flood hazard, development proposals should only be considered where:

- new development can be justified in that location, even though it is likely to be at risk from flooding; and
- the development proposal would not result in the intensification of existing development which may itself be at risk; and
- new development would not increase the potential adverse impacts of a flood event

The general approach adopted in TAN 15 is to advise caution in respect of new development in areas of high risk of flooding, and it sets out a 'precautionary' framework to guide planning decisions, seeking to direct new development away from areas at risk. It details specific tests for local planning authorities to apply to development proposals, requiring an authority to be satisfied a proposal is first *justified* (criteria set out in Section 6) and then that the *consequences of flooding* (set out in Section 7) are acceptable. It advises that where the risks and consequences of flooding cannot be managed to an acceptable level for the nature and type of development, development should be avoided irrespective of the justification. TAN 15 stresses the need for suitable Flood Consequences Assessments to be submitted with applications, to establish the source / mechanism of flooding, the consequences of flooding, and as appropriate, details of mitigation measures to show if risk can be managed to an acceptable level for the type of development.

The site is located within Zone C1 of the Development Advice Map (DAM) as referred to by the Technical Advice Note (TAN) 15: Development and Flood Risk. The Flood Map for Planning (FMfP) indicates that the site is in Flood Zone 3 (Sea), with the most likely source of flooding being the Irish Sea and Tidal Clwyd.

The development proposal is for the change of use from nursery to a residential dwelling. The existing lawful planning use would be classed as 'vulnerable', given the sites most recent use as a nursery. However NRW consider the proposed use to be

an intensification in vulnerability, as the development now proposes overnight accommodation.

NRW's detailed comments on the application are as follows:

"We have reviewed the Flood Consequences Assessment (FCA) submitted in support of the application by KRS Enviro (dated June 2023; ref: KRS.0690.003.R.001.A). Our advice to you is that the FCA fails to demonstrate that the proposed development can be designed to comply with TAN15 for the reasons below.

Section A1.14 of TAN15 requires the FCA to demonstrate that the proposed development can be designed to be flood free in the 0.5% (1 in 200 year) Annual Exceedance Probability (AEP) tidal event with allowance for climate change over the lifetime of the development and appropriate breach scenarios. On page 13, the FCA states that the site would not be at risk of flooding from overtopping in the above (defended) scenario for 2117. The figure referred to in support of this statement (figure 9) shows an output from the tidal flood model only, which does not account for the influence of the Tidal Clwyd. Figure 11 shows an output from the relevant model which combines flood risk from both tidal frontage and the Clwyd. Referring to this figure, the FCA acknowledges on page 14 that the site would be subject to flooding in the design event (for 2092); however, this model output is not used to provide site specific flood level/depth data. Instead, the FCA uses data from the 2015 Tidal Clwyd Study and climate change calculations to give an estimated flood depth at the site of less than 0.5 m in 2123. We would recommend that flood levels/depths are taken from the relevant outputs from the linked Tidal and Tidal Clwyd runs of the Point of Ayr to Pensarn study – in this instance, they show that significantly more flooding is likely in the 2092 event than is predicted for 2123 by the FCA. We advise that the FCA fails to demonstrate that the proposal can comply with A1.14, since it does not demonstrate that the proposed development can be designed to be flood free in the required design events. Therefore, we raise concerns with the application and request a revised FCA is submitted.

The revised FCA should provide site specific flood level and depth information for the design event provided above, from the relevant model outputs – in this case, the linked Tidal and Tidal Clwyd runs of the Point of Ayr to Pensarn study (2018). We note that flood levels at the site are likely to be in excess of 1 m, so it may be difficult to demonstrate compliance with A1.14. If no further information is submitted, or the revised FCA fails to demonstrate that the consequences of flooding can be acceptably managed over the lifetime of the development, then we object to this application and recommend that the application be refused. If, contrary to the requirements of TAN15, your Authority is minded to grant permission, we should be informed of all matters that influence this decision, prior to granting permission, allowing sufficient time for further representations to be made."

Additional information was provided by the authors of the FCA and NRW re-consulted, they responded:

"We have We have reviewed the Flood Consequences Assessment (FCA) submitted in support of the application by KRS Enviro (dated June 2023; ref: KRS.0690.003.R.001.A) and the associated addendum to the Flood Consequences Assessment (FCA) submitted by KRS Enviro (dated 25th September 2023 ref: KRS.0690.003.R.002.A).

Our advice remains that the FCA (and associated addendum) fails to demonstrate that the proposed development can be designed to comply with TAN15 for the reasons below.

Section A1.14 of TAN15 requires the FCA to demonstrate that the proposed development can be designed to be flood free in the 0.5% (1 in 200 year) Annual Exceedance Probability (AEP) tidal event with allowance for climate change over the lifetime of the development and appropriate breach scenarios. On page 13, the FCA states that the site would not be at risk of flooding from overtopping in the above

(defended) scenario for 2117. The figure referred to in support of this statement (figure 9) shows an output from the tidal flood model only, which does not account for the influence of the Tidal Clwyd. Figure 11 shows an output from the relevant model which combines flood risk from both tidal frontage and the Clwyd. Referring to this figure, the FCA acknowledges on page 14 that the site would be subject to flooding in the design event (for 2092); however, this model output is not used to provide site specific flood level/depth data. Instead, the FCA uses data from the 2015 Tidal Clwyd Study and climate change calculations to give an estimated flood depth at the site of less than 0.5 m in 2123. We would recommend that flood levels/depths are taken from the relevant outputs from the linked Tidal and Tidal Clwyd runs of the Point of Ayr to Pensarn study in this instance, they show that significantly more flooding is likely in the 2092 event than is predicted for 2123 by the FCA. We advise that the FCA fails to demonstrate that the proposal can comply with A1.14, since it does not demonstrate that the proposed development can be designed to be flood free in the required design events. Therefore, we raise concerns with the application and request a revised FCA is submitted.

The revised FCA should provide site specific flood level and depth information for the design event provided above, from the relevant model outputs in this case, the linked Tidal and Tidal Clwyd runs of the Point of Ayr to Pensarn study (2018). We note that flood levels at the site are likely to be in excess of 1 m, so it may be difficult to demonstrate compliance with A1.14. If no further information is submitted, or the revised FCA fails to demonstrate that the consequences of flooding can be acceptably managed over the lifetime of the development, then we object to this application and recommend that the application be refused."

It is clear from the above that the flooding issues require careful assessment in relation to the general advice in PPW and the detailed contents of TAN15, all in the context of the information provided by the KRS and response from NRW.

Firstly, in relation to applying the TAN 15 tests "Justification test" Section 6.2 states that development will only be justified if it can be demonstrated that:

- i) Its location in zone C is necessary to assist, or be part of, a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement; or,
- ii) Its location in zone C is necessary to contribute to key employment objectives supported by the local authority, and other key partners, to sustain an existing settlement or region;
- and,
- iii) It concurs with the aims of PPW and meets the definition of previously developed land (PPW fig 2.1); and,
- iv) The potential consequences of a flooding event for the particular type of development have been considered, and in terms of the criteria contained in sections 5 and 7 and appendix 1 found to be acceptable.

Having regard to the justification criteria in paragraph 6.2 of TAN15, Officers' view is that:-

- i) The proposal would comply with test i) in that the provision of a dwelling would assist the Growth Strategy for the County in Local Development Plan Policy BSC1, which is to provide housing to meet the needs of local communities and population changes, and it would contribute to expanding the range of accommodation in the town. The site is an existing building located within the development boundary of the adopted Local Development Plan. Housing development in existing settlements concurs with the aims of Planning Policy Wales.

- iii) As an existing property it is a brownfield site which meets the definition of 'previously developed land' in PPW, hence the proposals comply with test iii).

iv) In respect of criterion iv) it is not considered that the potential consequences of a flooding event for the particular type of development have been found to be acceptable.

NRW have reviewed the FCA and as the expert consultee have advised that they do not consider the FCA to be sufficient or to demonstrate that the risk and mitigation in relation to flood risks can be managed. On this basis they recommend refusal of the application.

On the advice of NRW which clearly states that the proposal fails to meet policy tests Officers have no option but to accept this advice recommend refusal of the application.

4.2.6 Highways (including access and parking)

Local Development Plan Policy RD 1 supports development proposals subject to meeting tests (vii) and (viii) which oblige provision of safe and convenient access for a range of users, together with adequate parking, services and manoeuvring space; and require consideration of the impact of development on the local highway network.

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment; and the effects of a development on, for example, health, public safety and crime. The highway impacts of development should therefore be regarded as a potential material consideration.

Highways Officers have raised no objection to the application.

The existing property has a permitted commercial use as part of a children's day nursery with no on-site parking. There is restricted on street parking in the wider area. The proposed dwelling would have 2 bedrooms. Whilst parking standards advise that 2 spaces would be required for an equivalent size dwelling the exiting use/situation, proximity to the town centre and alternative means of transport (rail, bus and cycle network) are noted.

Having regard to the nature of the proposed development and existing arrangements it is considered that the proposals would not have an unacceptable impact on highway safety. It would therefore be in general compliance with the tests of the policies referred to.

4.2.7 Open Space

Policy BSC 3 of the local development plan sets the basic requirement for development to contribute, where relevant, to the provision of infrastructure, including recreation and open space, in accordance with Policy BSC 11.

Policy BSC 11 specifies that all new housing developments should make adequate provision for recreation and open space. All such schemes put increased demand on existing open spaces and facilities and therefore the policy applies to all developments including single dwellings.

The existing use of the property is part of a children's day nursery accommodating up to 18 children and staff. Historically the property was a single dwelling only changing to the nursery in 2005. Considering the planning history, and nature of the existing use which could have placed some demand on local open space, Officers do not consider an open space requirement (i.e. a financial contribution) to be appropriate here. The proposal is considered acceptable in relation to open space policy.

Other matters

Well – being of Future Generations (Wales) Act 2015

The Well-being of Future Generations (Wales) Act 2015 imposes a duty on the Council not only to carry out sustainable development, but also to take reasonable steps in exercising its functions to meet its sustainable development (or well-being) objectives. The Act sets a requirement to demonstrate in relation to each application determined, how the development complies with the Act.

The report on this application has taken into account the requirements of Section 3 'Well-being duties on public bodies' and Section 5 'The Sustainable Development Principles' of the Well-being of Future Generations (Wales) Act 2015. The recommendation is made in accordance with the Act's sustainable development principle through its contribution towards Welsh Governments well-being objective of supporting safe, cohesive and resilient communities. It is therefore considered that there would be no significant or unacceptable impact upon the achievement of well-being objectives as a result of the proposed recommendation.

Equality Act 2010

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation. A public authority must, in the exercise of its functions, have due regard to advancing equality.

Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

The above duty has been given due consideration in the determination of this application. It is considered that the proposed development does not have any significant implications for, or effect on, persons who share a protected characteristic, over and above any other person.

5. SUMMARY AND CONCLUSIONS:

- 5.1 Whilst the principle and other planning considerations on this proposal may be acceptable, NRW have made a clear objection to the application on the basis of flood risk. Officers are acutely aware of recent Planning Committee decisions for similar development in the Rhyl area, including Aquarium Street and Bedford Street in the town centre. However on the advice of NRW which clearly states that the proposal fails to meet policy tests of TAN 15, Officers have no option but to recommend refusal of the application on the grounds of flood risk.

RECOMMENDATION: REFUSE for the following reasons:

1. It is the opinion of the Local Planning Authority that the proposal is not acceptable in relation to flood risk. The FCA acknowledges that the site would be subject to flooding and NRW confirm that flooding would be in excess of 1 metre, and mitigation measures would not be adequate to mitigate the risks from the flood levels anticipated onsite. As such the application fails to demonstrate compliance with A1.14 of TAN15 and would be contrary to Local Development Plan Policy RD 1 test (xi) which requires that development satisfies physical or natural environmental considerations relating to drainage and liability to flooding, and advice contained in Planning Policy Wales Section 6.6.22 to 6.29.

| | |
|------------------------------|--|
| Report to | Planning Committee |
| Date of meeting | 13th December 2023 |
| Lead Member / Officer | Cllr W Mullen-James, Lead Member for Local Development and Planning |
| Head of Service | Emlyn Jones, Head of Planning, Public Protection and Countryside Services |
| Report author | Karsten Brußk, Senior Planning Officer |
| Title | Addressing the Nature Emergency through the Planning System: Updated National Planning Policy for Chapter 6 of Planning Policy Wales |

1. What is the report about?

- 1.1. This report provides a summary of the changes that were made by Welsh Government to Planning Policy Wales (PPW) Edition 11 Chapter 6 on the 11th of October 2023; see Appendix 1.

2. What is the reason for making this report?

- 2.1. PPW establishes the key principles for the planning system. It sets out what development plans and decision taken by the planning system must achieve and how development should be shaped to deliver the best possible outcomes.
- 2.2. To inform Members of the Planning Committee of national policy changes that were made to PPW Edition 11 Chapter 6 and could be material to the determination of planning applications and planning appeals.

3. What are the Recommendations?

- 3.1 Members note the content of this report.

4. Report details

- 4.1. Welsh Government (WG) consulted with Local Planning Authorities (LPAs) on the proposed changes to PPW Edition 11 Chapter 6 in Spring 2023. Officers discussed the proposals with Members of the Strategic Planning Group (April 2023) and Planning Committee (May 2023). Consultation documents were distributed to all Members, who were invited to submit their views. The Council's response was subsequently finalised and submitted to WG by the 31st of May 2023, see Appendix 2.
- 4.2. The Welsh Minister for Climate Change, Julie James MS, wrote to all Heads of Planning on the 11th of October 2023 to announce that updated chapter 6 policy would come into immediate effect. The letter is supplemented by an annex that sets out the amendments but was not published before the 18th of October 2023.
- 4.3. Comprehensive policy changes are generally accompanied by the publication of a new edition of PPW, not by a letter to Chief Planning Officers (CPO letters) or Heads of Planning. WG aims to publish PPW Edition 12 as soon as practical and works with stakeholders on the preparation of additional guidance documents. Officers are not aware of any forthcoming changes to Technical Advice Note (TAN) 5 "Nature Conservation and Planning" (September 2009).
- 4.4. WG have not published a consultation report with feedback on individual changes, yet. The consultation report would however provide Officers with details on sources of information, justification, evidence, and the consideration of alternatives. Until the consultation report is published, Officers have only limited background information to assist Members with policy interpretation.
- 4.5. Officers would have welcomed the publication of Chapter 6 in a consolidated form because of the complex nature of the subject. It is difficult to track changes as presented in the annex to the Minister's letter. There are many 'new paragraphs' that set out new policy or the need to provide additional documents with planning applications, but without any reference number to assist the communication of changes to the public and the preparation of Officer reports.
- 4.6. Besides commenting on draft policy as part of the public consultation in Spring 2023, Officers cautiously raised concern regarding the impact of new policy on the Council's resources in terms of staff availability, experience, and monitoring.

Planning applications should principally be determined within eight weeks. There is, for example, the new statutory duty to consult the Council's Ecologist on every planning application that effects a non-statutory designated site (wildlife sites, nature reserves, etc.); see PPW 11 Chapter 6 (as amended), paragraph 6.4.20. Expertise/ knowledge is required on 'Building with Nature' standards when such information is submitted with future planning applications; see PPW 11 Chapter 6 (as amended), third 'new paragraph' below paragraph 6.2.5. Monitoring will not only become necessary in terms of net biodiversity gains but also of species and habitats that are likely to be reported upon in Local Development Plans AMRs; see PPW 11 Chapter 6 (as amended) paragraph 6.2.12.

- 4.7. Appendix 3 sets out the national policy changes (summary); commencing with a brief introduction to national policy objectives, followed by the requirements for plan preparation and the selection of candidate sites, and concludes with implications for the submission of planning applications and decision-making in Development Management.
- 4.8. Officers welcome the changes in principal as they support the Council's Corporate Priority "A greener Denbighshire" and the provisions contained in the "Climate and Ecological Change Strategy" (2021).

5. How does the decision contribute to the Corporate Plan 2022 to 2027: The Denbighshire We Want?

- 5.1. Implementing national policy on 'net benefit for biodiversity' and 'resilient ecosystems' supports the Council's Corporate Priority "A greener Denbighshire" and the provisions contained in the "Climate and Ecological Change Strategy" (2021).

6. What will it cost and how will it affect other services?

- 6.1. Planning will require additional support in terms of knowledge and expertise in the fields of biodiverse, nature conservation and enforcement.

7. What are the main conclusions of the Well-being Impact Assessment?

7.1. A Well-being Impact Assessment has not been carried out because this report is an information item to Planning Committee. Changes to national planning policy are the responsibility of WG.

8. What consultations have been carried out with Scrutiny and others?

8.1. Changes to PPW 11 Chapter 6 were presented to Members of the Strategic Planning Group on the 13th of November 2023. Training was requested, and Officers are in the preparation process. Details to be shared with Members when they become available.

9. Chief Finance Officer Statement

9.1. This report is for information purposes only.

10. What risks are there and is there anything we can do to reduce them?

10.1. There is no risk associated with noting the content of the report and appendices.

11. Power to make the decision

11.1. This report does not seek a decision, it is for information purposes only.

Appendix 1

Julie James AS/MS
Y Gweinidog Newid Hinsawdd
Minister for Climate Change



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: MA/JJ/2512/23

Local Authorities – Heads of Planning

11 October 2023

Dear Colleague,

I have previously highlighted the essential role that the planning system must play in meeting the challenges laid down by the Global Biodiversity Framework agreed at COP15, the Biodiversity Deep Dive recommendations developed in response to this and in continuing to fulfil our Section 6 duty to maintain and enhance biodiversity and the resilience of ecosystems in Wales [COP15, Biodiversity Deep Dive, Section 6 Duty and the Planning System \(gov.wales\)](#).

The proposed changes to planning policy, which I signalled then, were consulted on between 09 March and 31 May 2023. I very much welcomed the thoughtful and comprehensive responses made to this consultation exercise covering green infrastructure, net benefit for biodiversity, the protection afforded to Sites of Special Scientific Interest and trees and woodlands.

Taking these responses into account I have finalised policy for inclusion in the next iteration of Planning Policy Wales (version 12) programmed for later this year. Given the need to keep up momentum on fulfilling our COP15 obligations and Deep Dive aspirations, however, I am publishing updated chapter 6 policy with immediate effect as an annex to this letter.

The main changes to policy can be summarised as follows:

Green Infrastructure: stronger emphasis on taking a proactive approach to green infrastructure covering cross boundary considerations, identifying key outputs of green infrastructure assessments, the submission of proportionate green infrastructure statements with planning applications and signposting Building with Nature standards.

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Gohebiaeth.Julie.James@llyw.cymru
Correspondence.Julie.James@gov.Wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Net Benefit for Biodiversity and the Step-wise Approach: further clarity is provided on securing net benefit for biodiversity through the application of the step-wise approach, including the acknowledgement of off-site compensation measures as a last resort, and, the need to consider enhancement and long-term management at each step. The use of the green infrastructure statement as a means of demonstrating the stepwise approach is made explicit. A simplified diagram of the policy approach has been developed (which will be further refined in the consolidated version of PPW12). The importance of strategic collaboration to identify and capture larger scale opportunities for securing a net benefit for biodiversity is recognised.

Protection for Sites of Special Scientific Interest: strengthened approach to the protection of SSSIs, with increased clarity on the position for site management and exemptions for minor development necessary to maintain a 'living landscape'. Other development is considered unacceptable as a matter of principle. Exceptionally, a planned approach may be appropriate where necessary safeguards can be secured through a development plan.

Trees and Woodlands: closer alignment with the stepwise approach, along with promoting new planting as part of development based on securing the right tree in the right place.

I intend to issue version 12 of Planning Policy Wales as soon as practicable and will continue to work with stakeholders to provide further guidance to enable the implementation of the vital policy contained in Chapter 6.

Yours sincerely,



Julie James AS/MS
Y Gweinidog Newid Hinsawdd
Minister for Climate Change

Annex to Heads of Planning Letter Dated 11 October 2023: Addressing the Nature Emergency through the Planning System: Updated National Planning Policy for Chapter 6 of Planning Policy Wales

Distinctive and Natural Placemaking and Well-being

The Distinctive and Natural theme covers environmental and cultural components of placemaking. These components are complementary to those of the Active and Social and Productive and Enterprising themes and collectively the three themes come together to contribute towards the national sustainable placemaking outcomes. The diagram below illustrates how these outcomes are linked and work together as a whole, with Natural and Distinctive outcomes emphasised.

Places which are Distinctive and Natural contribute to the seven goals of the Well-being of Future Generations Act in the following ways.

A Prosperous Wales can be realised by valuing the quality of our landscapes and historic environment as important for tourism, business, local employment, locally sourced building products, in attracting inward investment and to be accessed, used and enjoyed by local communities. By protecting, maintaining and enhancing biodiversity, increasing the resilience of ecosystems and our natural environment more generally, it will be possible to future proof economic assets in response to the challenges presented by the climate emergency, to promote low carbon and appropriate resource choices which address the causes of climate change and to provide cost effective ecosystems services such as clean air and water.

A Resilient Wales can be supported by protecting and providing sufficient scale, extent, diversity and connectivity within, and between, landscapes and habitats to maintain and enhance biodiversity and the resilience of ecosystems. This support will enable them to withstand the pressures of change, to tackle pollution, to protect and enhance water resources, to protect soils and to enable flood mitigation, the creation of carbon sinks (especially in urban areas), and to promote opportunities for social and economic activity based on valuing and enabling access to the natural, historic and built environment.

A Healthier Wales can be achieved by enabling opportunities for connecting with the natural and historic environment, enabling access to tranquil areas, tackling airborne pollution and other environmental risks and the promotion of active travel and encouragement of healthier lifestyles with the benefit of improving physical and mental well-being.

A More Equal Wales can be achieved through facilitating access to the natural and historic environment for physical and social benefits especially where inequalities exist. Regeneration should promote beneficial use of historical mining and industrial legacies in a sensitive way to allow communities and the natural environment to thrive and significant tourism generators such as the Wales Coastal Path are protected and accessible by all.

Cohesive Communities are sustained and created by providing spaces for people to interact and undertake community activities, including recreational spaces, play, food growing and opportunities to connect with nature. Pollution or risks such as flooding are mitigated or avoided and based on maximising opportunities for communities to flourish and undertake social, economic and cultural activities in healthy, attractive and pleasant surroundings.

A Vibrant Culture and Thriving Welsh Language will mean building on those unique and special characteristics which give places their distinct 'feel' and identity. Fostering and sustaining a sense of place through the protection and enhancement of the natural, historic and built environment and allowing for and supporting uses and activities which provide for creative and cultural experiences.

A Globally Responsive Wales will be promoted by reducing carbon emissions, addressing airborne

pollution and managing environmental risks. This must be achieved in a way which promotes a natural and historic environment which should be protected and enhanced for the sake of its special characteristics and nature conservation value as well as the way in which it contributes to wider social, economic and cultural objectives, grass roots music venues, theatres and religious or spiritual buildings.

Development plan strategies, policies and development proposals should be formulated to look to the long term protection and enhancement of the special characteristics and intrinsic qualities of places, be these of natural, historic or built environments, ensuring their longevity in the face of change. This means both protecting and enhancing landscapes, habitats, biodiversity, geodiversity and the historic environment in their own right as well as other components of the natural world, such as water resources or air quality. Problems should be prevented from occurring or getting worse. Biodiversity loss should be reversed, pollution reduced, environmental risks addressed and the overall resilience of ecosystems improved. When appropriate development is proposed, it must be taken forward in an integrated way, woven into its place/context alongside nature to ensure common issues are considered and accommodated in the early stages of plan-making or individual proposal and multiple benefits, such as green infrastructure are secured. Proposals should work creatively with nature and should demonstrate how decisions on design, siting, scale density and other key considerations have been informed by biodiversity and ecosystem resilience considerations.

Collaboration must occur strategically in planning for the protection and enhancement of landscapes, the historic environment, biodiversity, geodiversity, air quality and soundscapes as well as addressing environmental risks to ensure priorities align and opportunities, such as regeneration and the provision of homes, can be sustainably provided. There will be issues which require cross boundary collaboration and will be best addressed through joint working on development plans and other initiatives. To do this, close involvement of various agencies and communities will be required to ensure needs and aspirations can be aligned, investment is targeted to the right places and beneficial outcomes can be gained by better use of shared information, evidence and assessments. The State of Natural Resources Report (SoNaRR) and Area Statements provide evidence on a range of environment and natural resource management issues and an effective de-risking approach should facilitate greater transparency about environmental risks, appropriate solutions and the potential for wider associated benefits.

Distinctive and Natural Trends

The future trends of relevance to the Distinctive and Natural theme will need to be addressed, both individually and in an integrated way by embracing the national sustainable placemaking outcomes and the objectives for places identified in the Productive and Enterprising and Active and Social themes. Certain trends will be beneficial and should be facilitated by the planning system. Negative trends or cycles must be challenged and reversed and more sustainable behaviours and outcomes sought. Change must be fostered in the way all those involved in the planning process respond, both strategically and locally when drawing up and designing individual proposals.

The key issues in this theme include:

- Long term and chronic decline of biodiversity and habitat loss: Pressure and demands include changes in land and sea-use, including the loss of traditional land management practices, direct exploitation of organisms, climate change, pollution and the arrival of invasive non-native species (INNS). SoNaRR 2020 reports losses of habitat and species' populations over the last century and suggests that decline is chronic, that decline will continue due to events which have already occurred and events associated with climate change and habitat fragmentation in the future. At present, there is insufficient resilience in Wales' ecosystems, primarily evidenced by species not recovering.
- Adaptation to the effects of climate change: The combination of warming that has already

occurred, together with additional warming, as projected by the latest climate change evidence, means there are potentially significant impacts for Wales in terms of adaptation. The challenges include flooding and coastal change risks to communities, businesses and infrastructure; risks to health, wellbeing and productivity from high temperatures; risk of water shortages in the public water supply, agriculture, energy generation and industry and risks to soil, biodiversity and terrestrial, coastal, marine and freshwater habitats. Climate change is also likely to have significant impacts on landscape character, historic buildings, local distinctiveness and quality, directly through changing land cover, migrating habitat and species ranges, and indirectly by influencing land use decisions.

- Recognising and addressing the factors influencing landscape change: SoNaRR reports national landscape change to 2015 has been small overall, but some changes have been substantial locally. The key contributors to landscape change which can be influenced by the planning system include the expansion of settlements, commercial, industrial, energy and quarrying developments, road improvements and large recreational related developments, including any associated mitigation measures.
- Rising levels of airborne and water pollution: SoNaRR reports increases in air pollution across a range of pollutants from urbanisation, road traffic and intensification of agriculture. Within freshwater and marine environments SoNaRR reports elevated nutrient and chemical contaminants which are detrimental to ecosystem function and resilience.
- Loss of venues for cultural activities or historic assets: understanding and addressing the challenges of loss of cultural features which give places their unique feel, including those subjected to particular pressure as a result of increasing demands for urban living.

Distinctive and Natural Linkages

Driven by the national sustainable placemaking outcomes, the policy topics of the Distinctive and Natural places theme must be considered together with the Productive and Enterprising and Active and Social themes when formulating development plan strategies, policies and proposals and when designing and developing individual proposals and making decisions on planning applications.

The characteristics and environmental qualities of places varies across Wales, creating distinctive or unique features associated with their particular natural or cultural heritage and these should be recognised and valued, in and of, themselves and should be protected and enhanced. Priorities for rural and urban areas will reflect how these characteristics and qualities contribute to the attractiveness, liveability, resilience, functioning, economic prosperity and ultimately the health, amenity and wellbeing of people and places.

Desired Distinctive and Natural outcomes will be based on sustaining and creating places in which:

- the role which landscapes, the historic environment, habitats and biodiversity, the characteristics of coastal, rural or urban environments play in contributing to Distinctive and Natural places are identified, understood, valued, protected, maintained and enhanced;
- further fragmentation and isolation of habitats and species is avoided, wherever possible, and wildlife corridors and stepping stones forming wider ecological networks are protected, maintained and enhanced;
- sites designated for their landscape or biodiversity or geodiversity importance are fully considered and their special characteristics and features protected and enhanced, whilst the series of sites should be recognised as being at the heart of improving the resilience of ecosystems;
- development proposals are directly shaped by the principle of retaining and enhancing existing habitats and species. This is the most cost effective and robust option for biodiversity, taking

into account the benefits of a preventative approach;

- opportunities in all areas to improve the resilience of ecosystems are taken by addressing problems such as, building on floodplains, diffuse pollution, soil compaction and sealing, ensuring the protection of peat resources and improving approaches to coastal flood defence in urban areas and coastal margins;
- opportunities to improve health and well-being are taken, in particular, to reduce average levels of airborne pollution, protect appropriate soundscapes, create areas of tranquillity, secure sustainable drainage systems, ensure water sensitive design, address soil carbon management and secure access to informal spaces for recreation through green infrastructure provision so as to improve capacity for adaptability to the challenges of climate change, such as flood risk and increased temperatures;
- opportunities to develop green infrastructure are taken, where this would improve the resilience of ecosystems; and
- support development which contributes positively to an area and addresses environmental risks which constrain potential and impact adversely on communities and the natural and built environment by using PDL or existing buildings and taking opportunities to 'clean up' land and address dereliction, where this is informed by the historic and natural environment.

Introduction

- 6.0.1 The Distinctive and Natural Places theme of planning policy topics covers historic environment, landscape, biodiversity and geodiversity, coastal characteristics, air quality, soundscape⁹⁸, water services, flooding and other environmental (surface and sub-surface) risks.
- 6.0.2 The special and unique characteristics and intrinsic qualities of the natural and built environment must be protected in their own right, for historic, scenic, aesthetic and nature conservation reasons. These give places their unique identity and distinctiveness and provide for cultural experiences and healthy lifestyles.
- 6.0.3 As well as those characteristics regarded as special or unique there are other, environmental qualities of places which are ubiquitous. Environmental components of places, such as clean air, access to open spaces and water quality, are linked to the quality of the built and natural environment. The environmental components of places influence and shape health and wellbeing as well as playing a role in sustaining and creating places which are adaptable and resilient to change. Distinctive and Natural places must maintain or incorporate green infrastructure, recognising the wide ranging role it can play, as key components of their natural and built fabric. Doing so will maximise health and well-being of communities and the environment.

6.2 Green Infrastructure

- 6.2.1 Green infrastructure is the network of natural and semi-natural features, green spaces, rivers and lakes that intersperse and connect places. Component elements of green infrastructure can function at different scales and some components, such as trees and woodland, are often universally present and function at all levels. At the landscape scale green infrastructure can comprise entire ecosystems such as wetlands, waterways, peatlands and mountain ranges or be connected networks of mosaic habitats, including grasslands. At a local scale, it might comprise parks, fields, ponds, natural green spaces, public rights of way, allotments, cemeteries and gardens or may be designed or managed features such as sustainable drainage systems. At smaller scales, individual urban interventions such as street trees, hedgerows, roadside verges, and green roofs/walls can all contribute to green infrastructure networks.

- 6.2.2 The Environment (Wales) Act 2016, provides a context for the delivery of multi-functional green

infrastructure. Its protection and provision can make a significant contribution to the sustainable management of natural resources, and in particular to protecting, maintaining and enhancing biodiversity and the resilience of ecosystems in terms of the diversity within and connections between ecosystems and the extent and condition of these ecosystems, so that they are better able to resist, recover from and adapt to pressures. This means that the development of green infrastructure is an important way for local authorities to deliver their Section 6 duty¹¹³.

- 6.2.3 Green infrastructure is capable of providing several functions at the same time and as a result offers multiple benefits, for social, economic and cultural as well as environmental resilience. The components of green infrastructure, by improving the resilience of ecosystems, can result in positive benefits to well-being including flood management, water purification, improved air quality, reduced noise pollution and local climate moderation, climate change mitigation and food production. These benefits are important in urban environments where they can facilitate health and well-being related benefits of open space, clean air and improved tranquility, for example, as well as creating a sense of place and improved social cohesion. In addition, green infrastructure has a role in protecting local distinctiveness, providing economic benefits and social and community opportunities.

Taking a proactive approach to Green Infrastructure

- 6.2.4 Green infrastructure plays a fundamental role in shaping places and our sense of well-being, and is intrinsic to the quality of the spaces we live, work and play in. The planning system must maximise its contribution to the protection and provision of green infrastructure assets and networks as part of meeting society's wider social and economic objectives and the needs of local communities. Taking a proactive and spatial approach, which links to wider activity being taken by local authorities to protect and provide green infrastructure, will help provide clarity around the contribution which the planning system can make. This means considering how it complements existing and future maintenance and management regimes within urban areas and contribute towards wider land management activities in rural areas to aid nature recovery, and its underpinning natural resources¹. This will require effective joint working and collaboration across various sectors and activities, including administrative boundaries. Establishing arrangements to promote collaboration across local authority borders will be necessary, especially where the provision of off-site compensatory land to address biodiversity loss and provide enhancement will have the greatest benefit for biodiversity and resilient ecological networks.

Green Infrastructure Assessments

- 6.2.6 Planning authorities must, as part of adopting a strategic and proactive approach to green infrastructure, biodiversity and ecosystems resilience produce, up to date inventories and maps of existing green infrastructure and ecological assets and networks. Local authorities may already be undertaking such assessments and/or preparing such information to underpin local authority wide green infrastructure strategies and where this is the case planning authorities should both contribute to this process and use the inventories and mapping to underpin a spatial approach in their development plans. Green Infrastructure Assessments provide key evidence to support the preparation of development plans and where authorities are not already actively undertaking assessments, they should be undertaken as part of development plan preparation. Such Green Infrastructure Assessments should use existing datasets, and the best available information, to develop an integrated map-based evidence resource for biodiversity, ecosystem resilience and ecosystem service provision. Doing so will facilitate a proactive approach and enable contributions towards the well-being goals to be maximised.

¹ Future Wales Policy 9

- 6.2.8 Green Infrastructure Assessments should also draw from the evidence base provided by NRW's Area Statements and Nature Network Maps, Well-being Assessments and locally and regionally collected green infrastructure data and mapping already underpinning local authority approaches to green infrastructure. Its outcomes should be integrated into development plans to ensure the early and co-ordinated consideration of opportunities to inform the development, design and land related strategies of the development plan. The Green Infrastructure Assessment and outcomes should also be given early consideration in development proposals, and inform the design and implementation of projects.
- 6.2.9 Considering how significant benefits can be delivered through green infrastructure will be a key aim of the assessment and will require collaboration with other stakeholders, including those across administrative boundaries. Planning authorities should develop a **multi-functional**, coherent and spatial framework of green infrastructure to improve the overall well-being and health of communities and the environment. The assessment should be used to develop a robust approach to maintaining and enhancing biodiversity, increasing ecosystem resilience and the multiple benefits obtained from nature, and should identify key strategic opportunities where the protection, retention, restoration, creation and connection of green features and functions would deliver the most significant benefits. Outputs from the green infrastructure assessment must address: -
- The identifying of landscape, biodiversity, geodiversity, and historic and cultural features in which green infrastructure plays a part, which are already being safeguarded as part of multi-functioning urban and rural landscapes;
 - The nature emergency identifying and demonstrating how a net benefit for biodiversity will be secured and the attributes of ecosystem resilience enhanced, making the links to other land management activity, such as local nature recovery plans, and identifying land which may be required for the protection, retention and restoration and recovery of nature (and in providing a net benefit for biodiversity). This includes recognising the value of designated sites, and natural resources such as peatlands, as part of resilient ecological networks. In urban areas, the protection and provision of green infrastructure should be considered alongside the needs of wider maintenance regimes and any role development may have in making an effective contribution. The assessments may assist in identifying how the impact of INNS and the risk of introducing or spreading INNS will be managed;
 - The reduction of pollution, as far as possible, by identifying green infrastructure/nature based solutions which form part of, or complement, wider activity at a catchment scale to address pollution and improve the restoration of riverine and other habitats;
 - The climate emergency by ensuring the multi-functional benefits provided by trees and woodlands are identified; for example, by increasing tree canopy cover in urban areas to ensure shading against increased temperatures, and by requiring effective natural flood management and sustainable drainage schemes. Such measures may also help maintain good air quality and appropriate soundscapes;
 - The health and well-being of communities by ensuring they have accessible natural green spaces of various sizes and scales within reasonable walking and cycling distances; and
 - How the planning system should secure the implementation and management of green infrastructure, recognising its dynamic nature, over the long term.
- 6.2.10 The need for ecosystems, habitats and species to adapt to climate change and other pressures should be considered as part of the Green Infrastructure Assessment. This must include identifying ways to avoid or reverse the fragmentation of habitats, and to improve habitat connectivity where

appropriate, through the promotion of wildlife corridors, protection of riverine corridors and identifying opportunities for land rehabilitation, reducing pollution, landscape management and habitat restoration, creation and nature recovery. The role of development as part of a spatial approach will be two fold. Planning authorities firstly must ensure that development avoids and then minimises impact on biodiversity and ecosystems and secondly that it provides opportunities for enhancement within areas identified as important for the ability of species to adapt and/or to move to more suitable habitats.

- 6.2.11 Planning authorities must encourage the appropriate management of features of the landscape which are of major importance for wild flora and fauna in order to complement and improve the ecological coherence of the National Site Network, formally known as the Natura 2000 network¹¹⁴ as well as SSSIs and other statutory and non-statutory designated sites. The features concerned are those which, because of their linear and continuous structure or their function as 'stepping stones' or 'wildlife corridors', are essential for migration, dispersal or genetic exchange. The protection and creation of networks of statutory and non-statutory sites and of the landscape features which provide links from one habitat to another can make an important contribution to developing resilient ecological networks and securing a net benefit for biodiversity and in doing so improve the quality of the local place and its ability to adapt to climate change.
- 6.2.12 Green Infrastructure Assessments and their data and mapped outputs must be regularly reviewed to ensure that information on habitats, species and other green features and resources is kept up-to-date. This will ensure development management decisions are informed by appropriate spatial information about the potential effects of development on biodiversity and green infrastructure functions and help identify where different types of green infrastructure benefits/ecosystems services can be secured. Planning authorities should use the best available data to establish and monitor a set of key indicators and incorporate these indicators into both their Annual Monitoring Reports (AMRs) and, where appropriate, into the appropriate Section 6 Plan and Report. Such indicators will be place-specific and may cover information on key species and habitats, opportunities for the protection, retention, restoration and recovery of nature (to secure a net benefit for biodiversity) and benefits/ecosystem services which contribute to the health and well-being of communities. The monitoring of the success and delivery of net benefits for biodiversity secured through conditions and obligations would usefully feed into this process in addition to any agreed management plan for the site. At the end of each reporting period planning authorities should use this data to indicate whether there has been a net benefit or loss of biodiversity; whether progress is being made on securing mitigation and enhancement measures; and they should use the trends identified to determine future priorities for planning and decision making, with the aim of furthering the goals of the Section 6 Duty.

Integrating Green Infrastructure and Development

- 6.2.5 The quality of the built environment should be enhanced by integrating green infrastructure into development through appropriate site selection and use of creative design. With careful planning and design, informed by an appropriate level of assessment, green infrastructure can embed the benefits of biodiversity and ecosystem services into new development and places, help to overcome the potential for conflicting objectives, and contribute to health and well-being outcomes.

New Paragraph

A green infrastructure statement should be submitted with all planning applications. This will be proportionate to the scale and nature of the development proposed and will describe how green infrastructure has been incorporated into the proposal. In the case of minor development this will be a short description and should not be an onerous requirement for applicants. The

green infrastructure statement will be an effective way of demonstrating positive multi-functional outcomes which are appropriate to the site in question and must be used for demonstrating how the step-wise approach (Paragraph 6.4.21) has been applied.

New Paragraph

There are multiple ways of incorporating green infrastructure, depending on the needs and opportunities a site presents, and the green infrastructure assessment should be referred to, as appropriate, in order to ascertain local priorities. Landscaping, green roofs, grass verges, sustainable drainage and gardens are examples of individual design measures that can have wider cumulative benefits, particularly in relation to biodiversity and the resilience of ecosystems as well as in securing the other desired environmental qualities of places. Wider landscape measures, such as the creation of species rich meadows, woodlands and the improvement of linkages between areas of biodiversity value should be considered for larger scale development. In most cases the green infrastructure statement should highlight any baseline data considered and surveys and assessments undertaken, including but not limited to, habitats and species surveys, arboricultural surveys and assessments, sustainable drainage statements, landscape and ecological management plans, open space assessments and green space provision and active travel links.

New Paragraph

Development proposals should be informed by the priorities identified in green infrastructure assessments and locally based planning guidance. The Building with Nature standards represent good practice and are an effective prompt for developers to improve the quality of their schemes and demonstrate the sustainable management of natural resources. Using these standards in a way which is proportionate to the nature and scale of the development proposed will be a useful way of ensuring appropriate consideration in circumstances where there is an absence of a green infrastructure assessment and planned approach or relevant local or Supplementary Planning Guidance. The standards are underpinned by an accreditation system and whenever possible, accreditation under these standards should be pursued.

6.4 Biodiversity and Ecological Networks

6.4.1 Biodiversity underpins the structure and functioning of ecosystems. It is the diversity of living organisms whether at the genetic, species, **habitat** or ecosystem level. An ecosystem is made up of living organisms, plants, animals and micro-organisms, in conjunction with their non-living environment, air, water, minerals and soil, and all the diverse and complex interactions that take place between them.

6.4.2 The Environment (Wales) Act 2016 introduced an enhanced biodiversity¹¹⁹ and resilience of ecosystems¹²⁰ duty (Section 6 Duty). This duty applies to public authorities in the exercise of their functions in relation to Wales and will help maximise contributions to achieving the well-being goals. Section 7 of the Act² **requires Welsh Ministers** to publish and maintain lists of species and types of habitats that are regarded as of 'principal importance' for the purpose of maintaining and enhancing that biodiversity³. The Nature Recovery Action Plan supports this legislative requirement to reverse the decline in biodiversity, address the underlying causes of biodiversity loss by putting nature at the heart of decision-making and increasing the resilience of ecosystems by taking specific action focused around the 6 objectives for habitats and species.

6.4.3 The planning system has a key role to play in helping to reverse the decline in biodiversity and

² <https://www.legislation.gov.uk/anaw/2016/3/section/7>

³ <https://www.biodiversitywales.org.uk/Section-7>

increase the resilience of ecosystems, at various scales, by ensuring appropriate mechanisms are in place to both protect against loss and to secure enhancement⁴. Recognising that development needs to take place and some biodiversity may be impacted, the planning system should ensure that overall there is a net benefit for biodiversity and ecosystem resilience, resulting in enhanced well-being. Addressing the consequences of climate change should be a central part of any measures to protect, maintain and enhance biodiversity and the resilience of ecosystems. Information contained in SoNaRR, Area Statements, Local Nature Plans, Local Nature Recovery Action Plans, Local Biodiversity Action Plans and held by Local Environmental Record Centres should be taken into account. Development plan strategies, policies and development proposals must consider the need to:

- support the maintenance and enhancement of biodiversity and the resilience of ecosystems;
- ensure action in Wales contributes to meeting international responsibilities and obligations for biodiversity and habitats, including the most recent targets set out in the 2022 UN Global Biodiversity Framework;
- ensure statutorily and non-statutorily designated sites and habitats are properly protected and managed and their role at the heart of resilient ecological networks is safeguarded;
- safeguard protected species and species of principal importance and existing biodiversity assets from direct, indirect or cumulative adverse impacts that affect their nature conservation interests and compromise the resilience of ecological networks and the components which underpin them, such as water, air and soil, including peat; and
- secure the maintenance and enhancement of ecosystem resilience and resilient ecological networks by improving diversity, extent, condition, and connectivity.

6.4.4 It is important that biodiversity and ecosystem resilience considerations are taken into account at an early stage in both development plan preparation and when proposing or considering development proposals. Since these considerations are not confined by administrative boundaries, nor by sectoral activity or regulatory regimes, they must be addressed strategically through consultation and collaboration with adjoining planning authorities and other bodies such as NRW and the third sector. All reasonable steps must be taken to maintain and enhance biodiversity and promote the resilience of ecosystems and these should be balanced with the wider economic and social needs of business and local communities. Where adverse effects on biodiversity and ecosystem resilience cannot be avoided, minimised or mitigated/restored, and as a last resort compensated for, it will be necessary to refuse planning permission.

Biodiversity and Resilience of Ecosystems Duty (Section 6 Duty)

6.4.5 Planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means development should not cause any significant loss of habitats or populations of species (not including non native invasive species), locally or nationally and must work alongside nature and it must provide a net benefit for biodiversity and improve, or enable the improvement, of the resilience of ecosystems. A net benefit for biodiversity is the concept that development should leave biodiversity and the resilience of ecosystems in a significantly better state than before, through securing immediate and long-term, measurable and demonstrable benefit, primarily on or immediately adjacent to the site. The step-wise approach outlined below is the means of demonstrating the steps which have been taken towards securing a net benefit for biodiversity. In doing so, planning authorities must also take account of and promote the resilience of ecosystems, in particular the following attributes, known as the

⁴ Resilient ecological networks are vital for nature recovery and are networks of habitat in good ecological condition linking protected sites and other biodiversity hotspots across the wider landscape, providing maximum benefit for biodiversity and well-being (Future Wales, Policy 9).

DECCA Framework⁵:

- diversity between and within ecosystems;
- the extent or scale of ecosystems;
- the condition of ecosystems including their structure and functioning;
- the connections between and within ecosystems; and
- adaptability of ecosystems including their ability to adapt to, resist and recover from a range of pressures likely to be placed on them through climate change for example.

6.4.6 In fulfilling this duty, planning authorities must also have regard to:

- the list of habitats and species of principal importance for Wales, published under Section 7 of the Environment (Wales) Act 2016;
- the SoNaRR, published by NRW;
- any Area Statement, published by NRW, that covers all or part of the area in which the authority exercises its functions and NRW's Nature Network Maps⁶ and
- guidance given to public authorities by Welsh Ministers under Section 6 of the Environment (Wales) Act.

6.4.7 Planning Authorities should also refer to up to date ecological survey information (where appropriate) and consider local ecological information submitted by recognised environmental organisations.

6.4.8 A proactive and creative approach towards facilitating the delivery of biodiversity and ecosystem resilience outcomes must be taken by all those participating in the planning process (including the third sector and communities) as small scale interventions contribute to a national scale resilience. In particular, planning authorities must demonstrate that they have sought to fulfil the duties and requirements of Section 6 of the Environment (Wales) Act by taking all reasonable steps to maintain and enhance biodiversity in the exercise of their functions¹²¹. This will require action to be taken at the plan level, and ideally through co-ordinated action across regions and sub-regions. Such action should facilitate the implementation of the Section 6 duty at the level of individual development proposals by setting a broad framework of opportunities for achieving a net benefit for biodiversity. The step-wise approach will help guide decision makers in securing a net benefit for biodiversity and the onus is on developers to bring forward proposals in a way which will achieve a net benefit for biodiversity demonstrating how they have used the step wise approach.

New Paragraph

Collaborative arrangements

It may not be possible for planning authorities to identify opportunities for a net benefit for biodiversity within their own administrative boundaries and co-operation may be needed to identify, capture and monitor net benefits for biodiversity across larger areas, making use of existing regional mechanisms or setting up new voluntary arrangements. Collaboration on this basis will mean exploring ways in which land may be identified and set aside to deliver net benefits for biodiversity and establishing where contributions could come forward towards the funding of nature recovery projects. It may also be possible as part of a co-ordinated approach

⁵ <https://cdn.cyfoethnaturiol.cymru/media/696279/ecosystem-resilience-in-a-nutshell-1-what-is-ecosystem-resilience.pdf>

⁶ https://datamap.gov.wales/layergroups/geonode:nrw_habitat_network
https://datamap.gov.wales/layergroups/geonode:nrw_priority_ecological_networks

to establish a position where net benefits for biodiversity are banked in advance of smaller scale developments coming forward. Net benefits for biodiversity would need to be monitored to ensure they are not lost to future development and that development proposals do not impact existing and previously agreed areas of net benefit for biodiversity⁷.

- 6.4.9 The broad framework for implementing the Section 6 Duty, securing a net benefit for biodiversity and building resilience through the planning system includes addressing all of the following attributes:

Implementing the Section 6 Duty: The DECCA Framework

Diversity: at a biological level, including at the genetic, species, habitat, ecosystems or sea/landscape scale, as well as at the geological and physical level underpins biodiversity, resilient ecosystems, their functioning and the delivery of important ecosystem services. More diverse ecosystems are more resilient to external influences (this includes biological, geological and physical diversity on a site). This means strategic planning and individual development proposals should avoid negative impacts on biodiversity, by considering how biodiversity assets, can be maintained and enhanced;

Extent: to ensure mechanisms allow for the identification of potential habitat, the maintenance of existing biodiversity assets and networks and promote the restoration of damaged, modified or potential habitat and the creation of new additional habitat, as ecosystems which are small in extent are less resilient to external influences. This means that strategic planning and individual development proposals must avoid loss in the extent of biodiversity and incorporate measures to appropriately maintain and enlarge existing habitats, especially where extent is small or declining, through habitat restoration and creation with adjoining and nearby areas, green infrastructure features and networks;

Condition: Ecosystems and biodiversity assets need to be in a healthy condition to function effectively, to deliver a range of important ecosystem services and be more resilient to external influences. Ecosystem health can be adversely affected by a range of pressures including land use and climate change, pollution, Invasive Non-Native Species and over exploitation as set out in SoNaRR. Good condition requires sufficient scale and functioning natural processes or appropriate management to provide structural complexity and sustain diverse mosaics of habitats. Strategic planning and individual development proposals must not compromise the condition of ecosystems. By taking an integrated landscape approach to development, for example, which considers both direct, indirect and cumulative impacts and benefits, and seeks to reduce pressures it should be possible to make a positive contribution. Planning for and securing the long term management of retained habitats is key to maintaining condition through for example, the use of planning obligations;

Connectivity: to take opportunities to develop functional and physical connectivity of biodiversity and ecological networks within and between ecosystems and across landscapes, building on existing connectivity and quality and encouraging habitat creation, restoration and appropriate management, including the links within and between habitats, allows species to forage, breed and migrate and respond to climate change and other pressures, as well as enabling the flow of natural processes (however, measures should be taken to prevent undesired flows such as INNS and nutrients). The opportunities to be taken at a strategic level could include enlarging habitat areas, developing buffers around designated sites or other biodiversity assets or corridors, including transport and river corridors, removal of barriers and the creation of 'stepping stones' which will strengthen the ability of habitats and ecological networks to adapt

⁷ Potential for a task and finish group to consider possible options.

to change, including climate change. Individual development proposals should identify and incorporate measures which enable appropriate links to be made between the site and its surroundings so as to improve connectivity.; and

Adaptation: resistance and recovery from pressures arise when the attributes of ecosystem resilience – diversity, extent, condition and connectivity of ecosystems are in good condition. Habitats and species are not static: planning for nature recovery should aim to sustain habitats and associated species as the geography and land use changes around them, harnessing natural processes and opportunities for nature-based solutions. This means that strategic planning and individual development proposals should identify impacts to the ecosystem resilience attributes of biodiversity, using the pressures identified in SoNaRR. They should incorporate measures to ensure that biodiversity’s ability to adapt to, resist and recover from pressures is enhanced. Enhancement of resilient ecological networks and securing and enhancing green infrastructure will be key ways of achieving this, as well as facilitating social and economic resilience aspirations of the Well-being of Future Generations Act.

Maintaining and Enhancing Biodiversity

- 6.4.21 Planning authorities must follow a step- wise approach to maintain and enhance biodiversity, build resilient ecological networks and deliver net benefits for biodiversity by ensuring that any adverse environmental effects are firstly avoided, then minimized, mitigated, and as a last resort compensated for. Enhancement must be secured by delivering a biodiversity benefit primarily on site or immediately adjacent to the site, over and above that required to mitigate or compensate for any negative impact.

New Paragraph

Having worked iteratively, in line with Figure 1X, through the stages of the step-wise approach below, and providing evidence in the Green Infrastructure Statement that the step-wise approach has been followed, a scheme of enhancements must be provided to ensure a net benefit for biodiversity. Where biodiversity enhancement proportionate to the scale and nature of the development is not proposed as part of an application, significant weight will be given to its absence, and unless other significant material considerations indicate otherwise, it will be necessary to refuse permission. Enhancement measures could include on-site, locally relevant, habitat creation and/or could be part of the development itself favouring the use of native species using biodiverse nature-based solutions such as SUDS, green roofs, grassland management for wildflowers or reptile refugia, woodland expansion, and wetland creation.

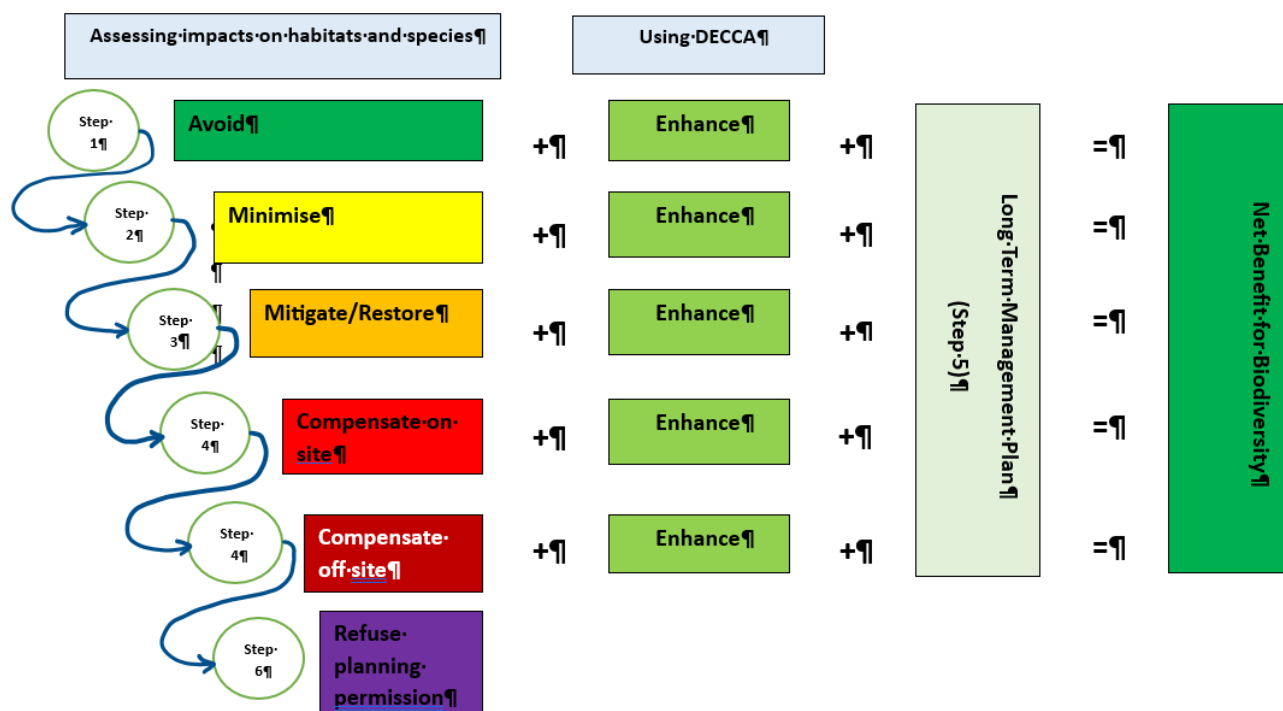
New paragraph

Improving ecosystem resilience, particularly improving connectivity to the immediate surroundings, would be a key contribution to on-site avoidance, minimisation, and mitigation strategies and enhancement. How a development would improve the attributes of resilience should be demonstrated as far as this is reasonably practical.

New Paragraph

Planning authorities can ensure biodiversity enhancement is undertaken at each stage of the step-wise approach below through attaching planning conditions and/or other obligations to a planning permission. Planning authorities should take care to ensure that any conditions necessary to implement this policy are, relevant to planning, and the development to be permitted, enforceable, precise, and reasonable in all other respects.

Figure 1X: Summary of the Step-Wise Approach



The Step-Wise Approach

- a) The first priority for planning authorities is to avoid damage to biodiversity in its widest sense (i.e. the variety of species and habitats and their abundance) and ecosystem functioning. Where there may be harmful environmental effects, planning authorities will need to be satisfied that any reasonable alternative sites (including alternative siting and design options) that would result in less harm, no harm or benefit have been fully considered.

b) Proposals in statutory designated sites are, as a matter of principle unacceptable, and therefore must be excluded from site searches undertaken by developers. This principle also extends to those sites containing protected species and habitats which are irreplaceable⁸ and must be safeguarded. Such sites form the heart of resilient ecological networks and their role and the ecosystem services they provide must be protected, maintained and enhanced and safeguarded from development. It will be wholly exceptional for development to be justifiable in such instances.
- When all locational, siting and design options for avoiding damage to biodiversity have been exhausted, applicants, in discussion with planning authorities must seek to minimise the initial impact on biodiversity and ecosystems by:
 - maintaining the largest possible area of existing habitat supporting biodiversity and functioning ecosystems, particularly Section 7 habitats and species where present, by minimising development size and appropriate orientation on site, paying due regard to the potential for continued long term maintenance and management of retained areas to benefit biodiversity;

⁸ Habitats, including the natural resources which underpin them, which would be technically very difficult (or take a very significant time) to restore, recreate or replace once destroyed, taking into account their age, uniqueness, species diversity or rarity. Examples include, ancient woodland and veteran trees, ancient hedgerows, wet woodlands, sand dunes, peatland, species rich grassland, long undisturbed soils, blanket bog, salt marsh and lowland fen.

- ensuring that retained habitats continue to be well connected to adjacent habitats to provide connectivity for key species and ensuring that the favourable conservation status of local species populations is maintained;
 - retaining existing features, develop a management plan for their future care (e.g., trees, hedgerows, species rich grasslands, heath, wetlands, ponds and freshwater habitats) and use appropriate buffers to protect these from construction and operational impacts, and
 - using proven innovative/creative solutions (where required) to minimise damage and maintain existing biodiversity features and ecosystems in tandem with robust monitoring and rectification strategies.
3. a) Where, after measures to minimise impact, biodiversity and ecosystems could still be damaged, or lost through residual impacts, the proposed development should mitigate that damage. Mitigation measures must be put in place to limit the negative effects of a development.
- 3.b) Effective mitigation or restoration measures should be incorporated into the design proposal following the consideration of steps one and two above. Mitigation or restoration measures must be designed to address the specific negative effects by repairing damaged habitats and disturbed species. They should seek to restore in excess of like for like, accounting for disturbance and time lags for the recovery of habitat and species, and in every case, mitigation or restoration measures should seek to build ecosystem resilience within the site and where possible the wider area. In some circumstances, where like for like mitigation measures are not possible, particularly in respect of restoration measures, it may be necessary to consider on site compensation measures in the first instance. In designing mitigation measures where uncertainty exists, applicants should follow the precautionary principle and assume a significant effect. Off-site compensation measures (as set out in step four below) should be considered as a last resort.
4. When all the steps above have been exhausted, and where modifications, alternative sites, conditions or obligations are not sufficient to secure biodiversity outcomes further on-site/immediately proximate, and as a last resort off-site compensation for unavoidable damage must be provided. This must be of significant magnitude to fully compensate for any loss.

In the absence of a planned approach, compensation measures must be guided by place-based evidence and the onus is on applicants to address the following:

- a. Off-site compensation should normally take the form of habitat restoration, or habitat creation, or the provision of long-term management agreements to enhance existing habitats and deliver a net benefit for biodiversity. It should also be informed by a full ecological assessment to establish a formal baseline before habitat creation or restoration starts and secured far enough in advance before the loss of biodiversity on site.
- b. The Green Infrastructure Assessment should be used to identify suitable locations for securing off-site compensation. Where possible, a landscape-scale approach, focusing on promoting wider ecosystem resilience, should help guide locations for compensation. The Green Infrastructure Assessment should provide a spatial guide to opportunities already identified for securing a net benefit for biodiversity. Using the assessment will help determine whether locations for habitat compensation should be placed close to the development site, or whether new habitat or additional management located further away from the site would best support biodiversity and ecosystem resilience at a wider

scale.

- c. Where compensation for specific species is being sought, the focus should be on maintaining or enhancing the population of the species within its natural range. This approach might also identify locations for providing species-specific compensation further away from the site. Where they exist, Spatial Species Action Plans should be used to help identify suitable locations.
 - d. Any proposed compensation should be place based, take account of the Section 6 Duty (Biodiversity and Resilience of Ecosystems Duty), the DECCA framework and appropriate ecological advice from the local authority Ecologist, NRW and, or a suitably qualified ecologist.
5. Each stage of the step-wise approach must be accompanied by a long term management plan of agreed and appropriate avoidance, minimisation, mitigation/restoration and compensation measures alongside the agreed enhancement measures. The management plan should set out the immediate and on-going management of the site, future monitoring arrangements for all secured measures and it should clearly identify the funding mechanisms in place to meet the management plan objectives. The management plan must set out how a net benefit for biodiversity will be achieved within as short a time as possible and be locally responsive and relevant to local circumstances.
- 6 Finally, where the adverse effect on biodiversity and ecosystem resilience clearly outweighs other material considerations, the development should be refused.

New paragraph

The following factors will affect the implementation of the above step-wise approach:

- Pre-application surveys, research and data searches by developers will be necessary to establish the baseline state of biodiversity and ecosystem resilience on site taking into account the site's contribution to resilient ecological networks through its diversity, extent, connectivity and condition and the provision of ecosystem services.⁹ For householder scale applications, planning authorities should outline expectations regarding information required to accompany an application, recognising that the enhancement measures sought should be proportionate to the scale of the application. Understanding the ecological context of a development will be essential in facilitating/enabling a proportionate response to the significance of any potential impact.
- Potential applicants should not conduct any pre-emptive site clearance works before submitting a planning application as this can make it more difficult for a development proposal to secure a net benefit for biodiversity. Where a site has been cleared prior to development its biodiversity value should be deemed to have been as it was before any site investigations or clearance took place. A net benefit for biodiversity must be achieved from that point. Habitat status can be established through evidence remaining on site and local desk-based assessments (planning authorities must ensure that they have access to these data sources). In such cases, habitat status will be presumed to be good in the absence of any evidence to the contrary.
- All development must deliver a net benefit for biodiversity and ecosystem resilience from the baseline state (proportionate to the scale and nature of the development proposed). Even if the biodiversity value has been maintained, there must still be a pro-active process to look for and secure enhancement through the design and implementation of the development.

Where sites are already allocated in an adopted development plan it may not be possible to follow the step-wise approach in a sequential way, because certain progress towards fulfilling the allocations

⁹ Note that surveys must be carried out at an appropriate time of year.

may have been made. However, when plans are to be reviewed then allocations should be considered afresh against the step-wise policy and in light of their present biodiversity condition and the role they may play in enhancing ecosystem resilience. In such circumstances it may be necessary to de-allocate sites. Where sites have progressed to a degree that it may not be possible to de-allocate them, then effects should be minimised and potential mitigation, and as a last resort, compensation identified and be capable of being secured.

Designated Sites

6.4.10 Many of the most important areas for biodiversity have been statutorily or non-statutorily designated. These sites make a vital contribution to protecting biodiversity, maintaining the resilience of ecosystems and can also be important in providing opportunities for achieving wider well-being objectives.

6.4.11 International, national and local designations are governed by different statutory and non-statutory requirements. Further guidance, particularly in relation to the National Site Network, is contained in TAN 5: Nature Conservation and Planning. Whilst the process of designation may differ, all designated sites must be able to continue to protect the biodiversity and features for which they were designated and contribute to the resilience of ecosystems at the appropriate scale. This ability should not be compromised by inappropriate development or other activity.

Protection and Management of Designated Sites

6.4.15 Statutorily designated sites must be protected from damage and deterioration, with their important features conserved and enhanced by appropriate management. The contribution of the designated site to wider resilient ecological networks should be recognised and captured as part of a strategic approach to planning policy and decision making. The links between planning and wider management activity for the restoration and recovery of nature should be made. Complementary, and joint, action between all sectors and beyond the boundaries of the designated sites themselves is necessary to improve extent, connectivity and adaptability and address the nature emergency.

6.4.12 The supporting reasoning for the designation at all levels and an outline of the qualifying features of the designation should be clearly recorded as part of the Green Infrastructure Assessment and considered in formulating development plans, when designing new development proposals and in development management decisions.

6.4.13 As part of a Green Infrastructure Assessment it may be necessary to differentiate between the relative significance of the designation, when considering the value of the nature conservation interests and the weight to be attached to this value in respect of development proposals. It should be recognised that all designated sites will have a unique and important role as part of ensuring resilient ecological networks and this contribution may be equally as important in a local context as its designation status.

Figure 12: Designated Sites

| Designation | Statutory or Non-Statutory | Interaction with Step-wise Approach |
|--|--|--|
| Special Area of Conservation | Statutory | Avoid |
| Special Protection Area | Statutory | |
| RAMSAR Sites | Statutory | |
| Site of Special Scientific Interest | Statutory | |
| National Nature Reserve | Statutory | |
| UNESCO Biosphere Reserve | Non-Statutory | Apply Step-wise Approach to determine |
| UNESCO Geoparks | Non-Statutory | |
| Sites of Importance for Nature Conservation | Non-Statutory | |
| Local Nature Reserve | Non-Statutory | |
| Local Wildlife Sites | Non-Statutory | |
| Regionally Important Geodiversity Sites (RIGS) | Non-Statutory | |
| Potential National Natural Resources Areas (Future Wales) | Development Plan | |
| Resilient Ecological Networks (RENs)/Nature Network Maps (NRW) | Area Statements/Green Infrastructure Assessments | |

6.4.16 Planning authorities should consider opportunities to restore networks of habitats to a healthy condition identified as a result of undertaking the Green Infrastructure Assessment and the identification of appropriate interventions to secure delivery against the attributes of resilience, namely, diversity, extent, connectivity, condition and adaptability. This includes identifying opportunities for restoration and nature recovery even if this is beyond its own administrative boundaries. Taking a spatial approach which, for example, identifies buffer zones around designated sites or stepping stones to improve connectivity between them will strengthen the ability of designated sites to fully perform their role at the heart of resilient ecological networks and to encourage nature recovery on a larger scale.

Sites of Special Scientific Interest

6.4.17 SSSIs are of national importance. The Wildlife and Countryside Act 1981, as amended by the Countryside and Rights of Way Act 2000, places a duty on all public bodies, including planning authorities, to take reasonable steps, consistent with the proper exercise of their functions, to further the conservation and enhancement of the features by reason of which a SSSI is of special interest. SSSIs can be damaged by developments within or adjacent to their boundaries, and in some cases, by development some distance away.

New paragraph

Development in a SSSI which is not necessary for the management of the site must be avoided. This is a matter of principle to ensure that these sites can continue to fulfil their role at the heart of resilient ecological networks. What may be necessary for the management of a site will need to be considered on a case by case basis but it is likely to be limited to activities needed to meet its conservation objectives, including restoration and nature recovery, as well as site management infrastructure, natural flood management and other appropriate nature based solutions. There may be desirable interventions in SSSIs relating to public access, active travel, educational projects and other minor development necessary to secure its role as a living landscape. This may include agricultural development, such as new barns, slurry stores, etc. required to reduce pollution, barn conversions to support tourism or other alterations or extensions to existing houses or buildings on existing

employment sites where effects on the features for which a site has been designated can be considered to be acceptable.

- 6.4.17 There is a presumption against all other forms of development in a SSSI as a matter of principle and this presumption should be appropriately reflected in development plans and development management decisions. There is also a presumption against development not within a SSSI but likely to damage a SSSI. In such cases, proposals must be carefully assessed to ensure that effects on those nature conservation interests which the designation is intended to protect are clearly understood and development should be refused where there are adverse impacts on the features for which a site has been designated. International and national responsibilities and obligations for conservation should be fully met, and, consistent with the objectives of the designation, statutorily designated sites should be protected from damage and deterioration, with their important features conserved and enhanced and the capacity for restoration demonstrated by and through appropriate management.

New paragraph

In wholly exceptional circumstances and only where development is considered to be appropriate and is not likely to damage a SSSI and there is broad and clear agreement for mitigation and enhancement as part of a development plan should development be proposed. This means that development will be considered unacceptable in the absence of an agreed position in a development plan which indicates that it is acceptable in terms of its effect on the notified features of a SSSI.

- 6.4.17 Before authorising development outside of a SSSI but likely to damage any of the notified features of a SSSI, planning authorities must give notice of the proposed operations to NRW, and must take its advice into account in deciding whether to grant planning permission and in attaching planning conditions. Where local planning authorities are minded to grant planning permission against the advice of NRW they must notify Welsh Ministers.

For the purposes of landuse planning proposed SSSIs will be treated in the same way as notified SSSIs.

Special Protection Areas, Special Areas of Conservation and Ramsar Sites

- 6.4.18 SACs and SPAs are of European importance. Under the Conservation of Habitats and Species Regulations (2017) (the Habitats Regulations), all public bodies (including planning authorities) must have regard to the requirements of the EC Habitats and Birds Directives when carrying out their functions. SACs and SPAs on land are underpinned by notification as SSSIs and hence subject to protection afforded by the SSSI provisions. Before authorising development or adopting a land use plan which is likely to have a significant effect on a SAC or SPA (including where outside the boundary of the SAC or SPA), planning authorities must carry out an appropriate assessment of the implications for the designated features, consult NRW and have regard to NRW's representations.

The development can normally only be authorised or the plan adopted, if the planning authority ascertains that it will not adversely affect the integrity of the site, if necessary taking into account any additional measures, planning conditions or obligations. Development or policies in land use plans for which there is no alternative solution and which must be carried out for imperative reasons of over-riding public interest may be authorised notwithstanding a negative assessment of the implications, subject to notifying Welsh Ministers.

Any necessary compensatory measures to protect the overall coherence of the network of SACs and SPAs must be secured. Ramsar sites are important wetland areas designated under the Ramsar Convention on Wetlands of International importance. As with SACs and SPAs, Ramsar sites are underpinned by notification as SSSIs and hence subject to the Habitats Regulations. However,

Ramsar sites should be treated within the planning system in the same way as SACs and SPAs. Further information on Habitats Regulations Assessment is contained in TAN 5: Nature Conservation and Planning.

Proposed Special Areas of Conservation, Special Protection Areas and Ramsar sites

- 6.4.19 Sites which have been formally proposed as SPAs, SACs but which are not yet subject to legal protection under the Habitats Regulations, should be treated within the planning system in the same way as if they were legally designated. The same considerations should, as a matter of policy, be applied to proposed Ramsar sites.

Protection for Non-statutory Designations

- 6.4.20 Although non-statutory designations do not have a statutory process for their protection Sites of Importance for Nature Conservation, Local Wildlife Sites, Local Nature Reserves, and Regionally Importance Geodiversity Sites make a vital contribution to delivering an ecological network for biodiversity and resilient ecosystems, and they should be given protection in development plans and the development management process. Non-statutory sites can form the core of a vital network of threatened habitats, play an essential role in protecting, maintaining, connecting and restoring biodiversity and contribute to nature recovery and a net benefit for biodiversity. Before authorising development likely to damage a local wildlife designation, planning authorities should give notice of the proposed operation to the local authority Ecologist and third sector environmental organisations. In all cases a written opinion must be secured from the local authority Ecologist. Where a Green Infrastructure Assessment has identified that certain features or characteristics of the site need to be maintained or enhanced, planning authorities should state in their development plans what features or characteristics require protection and why, and explain how the policies will achieve this protection. Assessments should similarly consider the presence of protected and priority habitats and species including those on the Section 7 list and appropriate weight attached to their protection.

New Paragraph

Where, for reasons of scale, local authorities have decided not to map non-statutory designations on a proposals or a constraints map, development plans should include a criterion-based policy to provide for sites that meet the qualifying criteria for non-statutory designation (including those sites that are currently unidentified); these sites carry equal weight to mapped sites.

New paragraph

Policies for non-statutory sites should make it clear that such designations do not preclude appropriate developments, where there are no adverse impacts on the features for which a site is designated and on wider ecosystem resilience. Where harm is unavoidable it should be minimised by mitigation measures and offset as far as possible by compensation measures designed to ensure there is no reduction in the overall conservation value of the area or feature,¹⁰ and a net benefit for biodiversity secured.

Peatlands

New paragraph

Peat soils are extremely fragile and if compromised put at risk the resilience of the ecosystems they support. Peatland habitats cover only 3-4% of Wales yet store in the region of 20-25% of all soil carbon. Where peat is identified within proposed developments considerable weight should be given to its protection because of its special importance in underpinning and supporting national natural resources such as soil carbon, biodiversity and flood management, and unless other significant material considerations indicate otherwise it will be necessary to refuse permission. When considering criterion 1 of the step-wise approach and when undertaking the search sequence in the preparation of development plans access to information will be important and Welsh Government have made available the Peatlands of Wales map as a first step to assist in identifying peatland

¹⁰ refer to paragraph 5.5.3 of TAN 5 Nature Conservation and Planning

locations.¹¹

Protected Species

- 6.4.22 The presence of a species protected under European or UK legislation, or under Section 7 of the Environment (Wales) Act 2016 is a material consideration when a planning authority is considering a development proposal which, if carried out, would be likely to result in disturbance or harm to the species or its habitat and to ensure that the range and population of the species is sustained. Planning authorities should advise anyone submitting a planning application that they must conform with any statutory species protection provisions affecting the site, and potentially the surrounding area, concerned. An ecological survey to confirm whether a protected species is present and an assessment of the likely impact of the development on a protected species may be required in order to inform the development management process. It is considered best practice that screening to determine the presence of protected species should be carried out by a competent ecologist on the basis of data provided by the relevant Local Environmental Record Centre.¹²³
- 6.4.23 Developments are always subject to the legislation covering European protected species regardless of whether or not they are within a designated site. Proposals for which development works would contravene the protection afforded to European protected species require derogations from the provisions of the Habitats Directive. A derogation may only be authorised if there is no satisfactory alternative and if the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range. The development works to be authorised must be for the purposes of preserving 'public health or safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment'. Derogations are granted by a licence issued by NRW who should notify planning authorities when a licence application has been granted. Planning authorities are under a duty to have regard to the requirements of the Habitats Directive in exercising their functions. To avoid developments with planning permission subsequently not being granted derogations in relation to European protected species, planning authorities must take the above three requirements for derogation into account when considering development proposals where a European protected species is present.

Trees, Woodlands and Hedgerows

- 6.4.24 Trees, hedgerows, groups of trees and areas of woodland are of great importance for biodiversity. They are important connecting habitats for resilient ecological networks and make an essential wider contribution to landscape character, culture, heritage and sense of place, air quality, recreation and local climate moderation. They also play a vital role in tackling the climate emergency by locking up carbon, and can provide shade, shelter and foraging opportunities, wider landscape benefits such as air and diffuse pollution interception, natural flood management, and building materials. The importance of trees, in particular urban trees, in creating distinctive and natural places which deliver health and well-being benefits to communities, now and in the future should be promoted as part of plan making and decision taking¹²⁴. Planning authorities must promote the planting of new trees, hedgerows, groups of trees and areas of woodland as part of new development.

New paragraph

Welsh native tree and hedge species, characteristic of the local area, provide a strong ecosystem

¹¹ Peatland Data Portal

<https://smnr-nrw.hub.arcgis.com/apps/d18ef8c74ecc4dc4a0c0171ab0933ba0/explore>

<https://naturalresources.wales/evidence-and-data/maps/the-national-peatland-action-programme/?lang=en>

resilience function, and they provide resources for local wildlife, particularly other native plants and species. Native tree and hedge species can also complement opportunities for natural regeneration. Alongside broader woodland habitat types, such as wood pasture, parkland and traditional orchards, native tree and hedge species help to define our cultural heritage and landscape, creating a strong sense of place and connection to the past.

- 6.4.25 Planning authorities must protect trees, hedgerows, groups of trees and areas of woodland where they have ecological value, contribute to the character or amenity of a particular locality, or perform a beneficial green infrastructure function¹². Planning authorities should consider the importance of trees and woodland, particularly native woodland and valued trees, and should have regard to local authority tree strategies or SPG and the Green Infrastructure Assessment. Planning authorities should adopt appropriate, locally relevant, time sensitive, minimum tree canopy cover targets for their authority area to guide the protection and where appropriate the expansion of canopy cover. The Green Infrastructure Assessment and tools such as NRW's Tree Cover in Wales' Towns and Cities study and Forest Research's i-Tree Eco tool will help establish a baseline of canopy cover and guide the identification of appropriate and measurable canopy targets.¹³ Tools to help with design and species choice in urban areas are also available.¹⁴

New paragraph

Where trees, woodland and hedgerows are present, their retention, protection and integration should be identified within planning applications. Where surveys identify trees, hedgerows, groups of trees and areas of woodland capable of making a significant contribution to the area, these trees should be retained and protected. The provision of services and utilities infrastructure to the application site should also avoid the loss of trees, woodlands or hedges and must be considered as part of the development proposal; where such trees are lost, they will be subject to the replacement planting ratios set out below.

New paragraph

Whilst most focus within the planning system is targeted at urban trees, planning authorities should recognise the importance of trees within the countryside, either as woodlands, within hedgerows and hedgebanks, or free-standing trees in fields, or as wood pasture. This is particularly important as the effects of climate change are leading towards pests and diseases that are damaging many of our native species in the rural landscape. Positive mechanisms of rural tree retention should be considered, and measures taken to replace them in an effective and economic manner, either with new planting or by allowing them to grow to their full potential.

- 6.4.25 Permanent removal of trees, woodland and hedgerows will only be permitted where it would achieve significant and clearly defined public benefits. Where individual or groups of trees and hedgerows are removed as part of a proposed scheme, planning authorities must first follow the step-wise approach as set out in paragraph 6.4.21. Where loss is unavoidable developers will be required to provide compensatory planting (which is proportionate to the proposed loss as identified through an assessment of green infrastructure value including biodiversity, landscape value and carbon capture). Replacement planting shall be at a ratio equivalent to the quality, environmental and ecological importance of the tree(s) lost and this must be preferably

¹² British Standard – BS5837:2012 Trees in relation to design, demolition and Construction – Recommendations

¹³ <https://naturalresources.wales/about-us/what-we-do/our-roles-and-responsibilities/green-spaces/urban-trees/?lang=en>

¹⁴ <https://naturalresources.wales/urbantrees?lang=en>

<https://naturalresources.wales/guidance-and-advice/environmental-topics/woodlands-and-forests/?lang=en>

<https://naturalresources.wales/about-us/what-we-do/our-roles-and-responsibilities/green-spaces/?lang=en> <https://www.tdag.org.uk/our-guides.html>

onsite, or immediately adjacent to the site, and at a minimum ratio of at least 3 trees of a similar type and compensatory size planted for every 1 lost. Where a woodland or a shelterbelt area is lost as part of a proposed scheme, the compensation planting must be at a scale, design and species mix reflective of that area lost. In such circumstances, the planting rate must be at a minimum of 1600 trees per hectare for broadleaves, and 2500 trees per hectare for conifers. The planting position for each replacement tree shall be fit to support its establishment and health, and ensure its unconstrained long-term growth to optimise the environmental and ecological benefits it affords.

6.4.26 Ancient woodland, semi-natural woodlands, individual ancient, veteran and heritage trees and ancient hedgerows are irreplaceable natural resources, and have significant landscape, biodiversity and cultural value. Such trees, woodlands and hedgerows are to be afforded protection from development which would result in their loss or deterioration unless very exceptionally there are significant and clearly defined public benefits; this protection must prevent potentially damaging operations and their unnecessary loss¹⁵. In the case of a site recorded on the Ancient Woodland Inventory, authorities should consider the advice of NRW. Planning authorities should also have regard to the Ancient Tree Inventory, work to improve its completeness and use it to ensure the protection of trees and woodland and identify opportunities for more planting as part of the Green Infrastructure Assessment, particularly in terms of canopy cover.

6.4.27 The protection and planting of trees and hedgerows should be delivered, where appropriate, through locally-specific strategies and policies, through imposing conditions when granting planning permission, and/or by making Tree Preservation Orders (TPOs)¹²⁵. They should also be incorporated into Green Infrastructure Assessments and plans.

6.6 Water and Flood Risk¹³²

6.6.1 As well as a direct requirement for life, well planned water services provide a range of benefits and services for society. The water industry itself is a source of green jobs and water services support energy and food production, recreation and tourism and connect homes and businesses to the infrastructure networks upon which they depend. As well as this existing natural ecosystems, green infrastructure features and nature based solutions play an important role in providing water quality and flood management.

6.6.5 The Welsh Government aims to secure the provision of water services whilst minimising adverse impacts on the environment, amenity, health and communities, in light of the consequences of climate change. Development which is poorly designed or badly located can exacerbate problems associated with resource depletion, exposure to surface water flooding and diffuse pollution. The planning system should:

- protect and improve water resources and quality by promoting and encouraging increased efficiency and demand management of water as part of new developments, particularly in those areas where water resources may be under pressure or may not be available and where failure of water quality standards needs to be addressed;
- ensure that the infrastructure networks, including nature based solutions, on which communities and businesses depend is adequate to accommodate proposed development, and takes into consideration the impacts of climate change, so as to minimise risk to human health and the environment and prevent pollution at source;
- ensure sustainable drainage systems are an integral part of design approaches for new development; and

¹⁵ Further advice in relation to ancient woodland is available on NRW's website.

- ensure the protection of the quantity and quality of surface and ground water supplies is taken into account as part of development proposals.

6.6.6 The ability of the planning system to protect water features and foster sustainable water management as key attributes of attractive and resilient places to live is closely aligned with securing the multiple benefits of green infrastructure. Ensuring the implementation of nature based solutions through green infrastructure provision is a key preference and the multiple benefits of protecting river corridors should be maximised. The identification of managed wetland and riparian buffer zones to improve water quality should be a key output of green infrastructure assessments because they will have a positive benefit in both reducing diffuse pollution and as part of securing a net benefit for biodiversity and improving the attributes of ecosystem resilience. Embracing integrated approaches should make a contribution toward achieving the requirements imposed by EU Water Framework Directive¹³³ and ensuring the restoration of water features, protected freshwater habitats and sustainable water management along with Welsh Government policy for the integrated planning and management of water both in urban and rural areas and at a catchment scale.

This page is intentionally left blank

Annex to Heads of Planning Letter Dated 11 October 2023: Addressing the Nature Emergency through the Planning System: Updated National Planning Policy for Chapter 6 of Planning Policy Wales

Distinctive and Natural Placemaking and Well-being

The Distinctive and Natural theme covers environmental and cultural components of placemaking. These components are complementary to those of the Active and Social and Productive and Enterprising themes and collectively the three themes come together to contribute towards the national sustainable placemaking outcomes. The diagram below illustrates how these outcomes are linked and work together as a whole, with Natural and Distinctive outcomes emphasised.

Places which are Distinctive and Natural contribute to the seven goals of the Well-being of Future Generations Act in the following ways.

A Prosperous Wales can be realised by valuing the quality of our landscapes and historic environment as important for tourism, business, local employment, locally sourced building products, in attracting inward investment and to be accessed, used and enjoyed by local communities. By protecting, maintaining and enhancing biodiversity, increasing the resilience of ecosystems and our natural environment more generally, it will be possible to future proof economic assets in response to the challenges presented by the climate emergency, to promote low carbon and appropriate resource choices which address the causes of climate change and to provide cost effective ecosystems services such as clean air and water.

A Resilient Wales can be supported by protecting and providing sufficient scale, extent, diversity and connectivity within, and between, landscapes and habitats to maintain and enhance biodiversity and the resilience of ecosystems. This support will enable them to withstand the pressures of change, to tackle pollution, to protect and enhance water resources, to protect soils and to enable flood mitigation, the creation of carbon sinks (especially in urban areas), and to promote opportunities for social and economic activity based on valuing and enabling access to the natural, historic and built environment.

A Healthier Wales can be achieved by enabling opportunities for connecting with the natural and historic environment, enabling access to tranquil areas, tackling airborne pollution and other environmental risks and the promotion of active travel and encouragement of healthier lifestyles with the benefit of improving physical and mental well-being.

A More Equal Wales can be achieved through facilitating access to the natural and historic environment for physical and social benefits especially where inequalities exist. Regeneration should promote beneficial use of historical mining and industrial legacies in a sensitive way to allow communities and the natural environment to thrive and significant tourism generators such as the Wales Coastal Path are protected and accessible by all.

Cohesive Communities are sustained and created by providing spaces for people to interact and undertake community activities, including recreational spaces, play, food growing and opportunities to connect with nature. Pollution or risks such as flooding are mitigated or avoided and based on maximising opportunities for communities to flourish and undertake social, economic and cultural activities in healthy, attractive and pleasant surroundings.

A Vibrant Culture and Thriving Welsh Language will mean building on those unique and special characteristics which give places their distinct 'feel' and identity. Fostering and sustaining a sense of place through the protection and enhancement of the natural, historic and built environment and allowing for and supporting uses and activities which provide for creative and cultural experiences.

A Globally Responsive Wales will be promoted by reducing carbon emissions, addressing airborne

pollution and managing environmental risks. This must be achieved in a way which promotes a natural and historic environment which should be protected and enhanced for the sake of its special characteristics and nature conservation value as well as the way in which it contributes to wider social, economic and cultural objectives, grass roots music venues, theatres and religious or spiritual buildings.

Development plan strategies, policies and development proposals should be formulated to look to the long term protection and enhancement of the special characteristics and intrinsic qualities of places, be these of natural, historic or built environments, ensuring their longevity in the face of change. This means both protecting and enhancing landscapes, habitats, biodiversity, geodiversity and the historic environment in their own right as well as other components of the natural world, such as water resources or air quality. Problems should be prevented from occurring or getting worse. Biodiversity loss should be reversed, pollution reduced, environmental risks addressed and the overall resilience of ecosystems improved. When appropriate development is proposed, it must be taken forward in an integrated way, woven into its place/context alongside nature to ensure common issues are considered and accommodated in the early stages of plan-making or individual proposal and multiple benefits, such as green infrastructure are secured. Proposals should work creatively with nature and should demonstrate how decisions on design, siting, scale density and other key considerations have been informed by biodiversity and ecosystem resilience considerations.

Collaboration must occur strategically in planning for the protection and enhancement of landscapes, the historic environment, biodiversity, geodiversity, air quality and soundscapes as well as addressing environmental risks to ensure priorities align and opportunities, such as regeneration and the provision of homes, can be sustainably provided. There will be issues which require cross boundary collaboration and will be best addressed through joint working on development plans and other initiatives. To do this, close involvement of various agencies and communities will be required to ensure needs and aspirations can be aligned, investment is targeted to the right places and beneficial outcomes can be gained by better use of shared information, evidence and assessments. The State of Natural Resources Report (SoNaRR) and Area Statements provide evidence on a range of environment and natural resource management issues and an effective de-risking approach should facilitate greater transparency about environmental risks, appropriate solutions and the potential for wider associated benefits.

Distinctive and Natural Trends

The future trends of relevance to the Distinctive and Natural theme will need to be addressed, both individually and in an integrated way by embracing the national sustainable placemaking outcomes and the objectives for places identified in the Productive and Enterprising and Active and Social themes. Certain trends will be beneficial and should be facilitated by the planning system. Negative trends or cycles must be challenged and reversed and more sustainable behaviours and outcomes sought. Change must be fostered in the way all those involved in the planning process respond, both strategically and locally when drawing up and designing individual proposals.

The key issues in this theme include:

- Long term and chronic decline of biodiversity and habitat loss: Pressure and demands include changes in land and sea-use, including the loss of traditional land management practices, direct exploitation of organisms, climate change, pollution and the arrival of invasive non-native species (INNS). SoNaRR 2020 reports losses of habitat and species' populations over the last century and suggests that decline is chronic, that decline will continue due to events which have already occurred and events associated with climate change and habitat fragmentation in the future. At present, there is insufficient resilience in Wales' ecosystems, primarily evidenced by species not recovering.
- Adaptation to the effects of climate change: The combination of warming that has already

occurred, together with additional warming, as projected by the latest climate change evidence, means there are potentially significant impacts for Wales in terms of adaptation. The challenges include flooding and coastal change risks to communities, businesses and infrastructure; risks to health, wellbeing and productivity from high temperatures; risk of water shortages in the public water supply, agriculture, energy generation and industry and risks to soil, biodiversity and terrestrial, coastal, marine and freshwater habitats. Climate change is also likely to have significant impacts on landscape character, historic buildings, local distinctiveness and quality, directly through changing land cover, migrating habitat and species ranges, and indirectly by influencing land use decisions.

- Recognising and addressing the factors influencing landscape change: SoNaRR reports national landscape change to 2015 has been small overall, but some changes have been substantial locally. The key contributors to landscape change which can be influenced by the planning system include the expansion of settlements, commercial, industrial, energy and quarrying developments, road improvements and large recreational related developments, including any associated mitigation measures.
- Rising levels of airborne and water pollution: SoNaRR reports increases in air pollution across a range of pollutants from urbanisation, road traffic and intensification of agriculture. Within freshwater and marine environments SoNaRR reports elevated nutrient and chemical contaminants which are detrimental to ecosystem function and resilience.
- Loss of venues for cultural activities or historic assets: understanding and addressing the challenges of loss of cultural features which give places their unique feel, including those subjected to particular pressure as a result of increasing demands for urban living.

Distinctive and Natural Linkages

Driven by the national sustainable placemaking outcomes, the policy topics of the Distinctive and Natural places theme must be considered together with the Productive and Enterprising and Active and Social themes when formulating development plan strategies, policies and proposals and when designing and developing individual proposals and making decisions on planning applications.

The characteristics and environmental qualities of places varies across Wales, creating distinctive or unique features associated with their particular natural or cultural heritage and these should be recognised and valued, in and of, themselves and should be protected and enhanced. Priorities for rural and urban areas will reflect how these characteristics and qualities contribute to the attractiveness, liveability, resilience, functioning, economic prosperity and ultimately the health, amenity and wellbeing of people and places.

Desired Distinctive and Natural outcomes will be based on sustaining and creating places in which:

- the role which landscapes, the historic environment, habitats and biodiversity, the characteristics of coastal, rural or urban environments play in contributing to Distinctive and Natural places are identified, understood, valued, protected, maintained and enhanced;
- further fragmentation and isolation of habitats and species is avoided, wherever possible, and wildlife corridors and stepping stones forming wider ecological networks are protected, maintained and enhanced;
- sites designated for their landscape or biodiversity or geodiversity importance are fully considered and their special characteristics and features protected and enhanced, whilst the series of sites should be recognised as being at the heart of improving the resilience of ecosystems;
- development proposals are directly shaped by the principle of retaining and enhancing existing habitats and species. This is the most cost effective and robust option for biodiversity, taking

into account the benefits of a preventative approach;

- opportunities in all areas to improve the resilience of ecosystems are taken by addressing problems such as, building on floodplains, diffuse pollution, soil compaction and sealing, ensuring the protection of peat resources and improving approaches to coastal flood defence in urban areas and coastal margins;
- opportunities to improve health and well-being are taken, in particular, to reduce average levels of airborne pollution, protect appropriate soundscapes, create areas of tranquillity, secure sustainable drainage systems, ensure water sensitive design, address soil carbon management and secure access to informal spaces for recreation through green infrastructure provision so as to improve capacity for adaptability to the challenges of climate change, such as flood risk and increased temperatures;
- opportunities to develop green infrastructure are taken, where this would improve the resilience of ecosystems; and
- support development which contributes positively to an area and addresses environmental risks which constrain potential and impact adversely on communities and the natural and built environment by using PDL or existing buildings and taking opportunities to 'clean up' land and address dereliction, where this is informed by the historic and natural environment.

Introduction

- 6.0.1 The Distinctive and Natural Places theme of planning policy topics covers historic environment, landscape, biodiversity and geodiversity, coastal characteristics, air quality, soundscape⁹⁸, water services, flooding and other environmental (surface and sub-surface) risks.
- 6.0.2 The special and unique characteristics and intrinsic qualities of the natural and built environment must be protected in their own right, for historic, scenic, aesthetic and nature conservation reasons. These give places their unique identity and distinctiveness and provide for cultural experiences and healthy lifestyles.
- 6.0.3 As well as those characteristics regarded as special or unique there are other, environmental qualities of places which are ubiquitous. Environmental components of places, such as clean air, access to open spaces and water quality, are linked to the quality of the built and natural environment. The environmental components of places influence and shape health and wellbeing as well as playing a role in sustaining and creating places which are adaptable and resilient to change. Distinctive and Natural places must maintain or incorporate green infrastructure, recognising the wide ranging role it can play, as key components of their natural and built fabric. Doing so will maximise health and well-being of communities and the environment.

6.2 Green Infrastructure

- 6.2.1 Green infrastructure is the network of natural and semi-natural features, green spaces, rivers and lakes that intersperse and connect places. Component elements of green infrastructure can function at different scales and some components, such as trees and woodland, are often universally present and function at all levels. At the landscape scale green infrastructure can comprise entire ecosystems such as wetlands, waterways, peatlands and mountain ranges or be connected networks of mosaic habitats, including grasslands. At a local scale, it might comprise parks, fields, ponds, natural green spaces, public rights of way, allotments, cemeteries and gardens or may be designed or managed features such as sustainable drainage systems. At smaller scales, individual urban interventions such as street trees, hedgerows, roadside verges, and green roofs/walls can all contribute to green infrastructure networks.

- 6.2.2 The Environment (Wales) Act 2016, provides a context for the delivery of multi-functional green

infrastructure. Its protection and provision can make a significant contribution to the sustainable management of natural resources, and in particular to protecting, maintaining and enhancing biodiversity and the resilience of ecosystems in terms of the diversity within and connections between ecosystems and the extent and condition of these ecosystems, so that they are better able to resist, recover from and adapt to pressures. This means that the development of green infrastructure is an important way for local authorities to deliver their Section 6 duty¹¹³.

- 6.2.3 Green infrastructure is capable of providing several functions at the same time and as a result offers multiple benefits, for social, economic and cultural as well as environmental resilience. The components of green infrastructure, by improving the resilience of ecosystems, can result in positive benefits to well-being including flood management, water purification, improved air quality, reduced noise pollution and local climate moderation, climate change mitigation and food production. These benefits are important in urban environments where they can facilitate health and well-being related benefits of open space, clean air and improved tranquility, for example, as well as creating a sense of place and improved social cohesion. In addition, green infrastructure has a role in protecting local distinctiveness, providing economic benefits and social and community opportunities.

Taking a proactive approach to Green Infrastructure

- 6.2.4 Green infrastructure plays a fundamental role in shaping places and our sense of well-being, and is intrinsic to the quality of the spaces we live, work and play in. The planning system must maximise its contribution to the protection and provision of green infrastructure assets and networks as part of meeting society's wider social and economic objectives and the needs of local communities. Taking a proactive and spatial approach, which links to wider activity being taken by local authorities to protect and provide green infrastructure, will help provide clarity around the contribution which the planning system can make. This means considering how it complements existing and future maintenance and management regimes within urban areas and contribute towards wider land management activities in rural areas to aid nature recovery, and its underpinning natural resources¹. This will require effective joint working and collaboration across various sectors and activities, including administrative boundaries. Establishing arrangements to promote collaboration across local authority borders will be necessary, especially where the provision of off-site compensatory land to address biodiversity loss and provide enhancement will have the greatest benefit for biodiversity and resilient ecological networks.

Green Infrastructure Assessments

- 6.2.6 Planning authorities must, as part of adopting a strategic and proactive approach to green infrastructure, biodiversity and ecosystems resilience produce, up to date inventories and maps of existing green infrastructure and ecological assets and networks. Local authorities may already be undertaking such assessments and/or preparing such information to underpin local authority wide green infrastructure strategies and where this is the case planning authorities should both contribute to this process and use the inventories and mapping to underpin a spatial approach in their development plans. Green Infrastructure Assessments provide key evidence to support the preparation of development plans and where authorities are not already actively undertaking assessments, they should be undertaken as part of development plan preparation. Such Green Infrastructure Assessments should use existing datasets, and the best available information, to develop an integrated map-based evidence resource for biodiversity, ecosystem resilience and ecosystem service provision. Doing so will facilitate a proactive approach and enable contributions towards the well-being goals to be maximised.

- 6.2.8 Green Infrastructure Assessments should also draw from the evidence base provided by NRW's Area Statements and Nature Network Maps, Well-being Assessments and locally and regionally collected green infrastructure data and mapping already underpinning local authority approaches to green infrastructure. Its outcomes should be integrated into development plans to ensure the early and co-ordinated consideration of opportunities to inform the development, design and land related strategies of the development plan. The Green Infrastructure Assessment and outcomes should also be given early consideration in development proposals, and inform the design and implementation of projects.
- 6.2.9 Considering how significant benefits can be delivered through green infrastructure will be a key aim of the assessment and will require collaboration with other stakeholders, including those across administrative boundaries. Planning authorities should develop a **multi-functional**, coherent and spatial framework of green infrastructure to improve the overall well-being and health of communities and the environment. The assessment should be used to develop a robust approach to maintaining and enhancing biodiversity, increasing ecosystem resilience and the multiple benefits obtained from nature, and should identify key strategic opportunities where the protection, retention, restoration, creation and connection of green features and functions would deliver the most significant benefits. Outputs from the green infrastructure assessment must address: -
- The identifying of landscape, biodiversity, geodiversity, and historic and cultural features in which green infrastructure plays a part, which are already being safeguarded as part of multi-functioning urban and rural landscapes;
 - The nature emergency identifying and demonstrating how a net benefit for biodiversity will be secured and the attributes of ecosystem resilience enhanced, making the links to other land management activity, such as local nature recovery plans, and identifying land which may be required for the protection, retention and restoration and recovery of nature (and in providing a net benefit for biodiversity). This includes recognising the value of designated sites, and natural resources such as peatlands, as part of resilient ecological networks. In urban areas, the protection and provision of green infrastructure should be considered alongside the needs of wider maintenance regimes and any role development may have in making an effective contribution. The assessments may assist in identifying how the impact of INNS and the risk of introducing or spreading INNS will be managed;
 - The reduction of pollution, as far as possible, by identifying green infrastructure/nature based solutions which form part of, or complement, wider activity at a catchment scale to address pollution and improve the restoration of riverine and other habitats;
 - The climate emergency by ensuring the multi-functional benefits provided by trees and woodlands are identified; for example, by increasing tree canopy cover in urban areas to ensure shading against increased temperatures, and by requiring effective natural flood management and sustainable drainage schemes. Such measures may also help maintain good air quality and appropriate soundscapes;
 - The health and well-being of communities by ensuring they have accessible natural green spaces of various sizes and scales within reasonable walking and cycling distances; and
 - How the planning system should secure the implementation and management of green infrastructure, recognising its dynamic nature, over the long term.
- 6.2.10 The need for ecosystems, habitats and species to adapt to climate change and other pressures should be considered as part of the Green Infrastructure Assessment. This must include identifying ways to avoid or reverse the fragmentation of habitats, and to improve habitat connectivity where

appropriate, through the promotion of wildlife corridors, protection of riverine corridors and identifying opportunities for land rehabilitation, reducing pollution, landscape management and habitat restoration, creation and nature recovery. The role of development as part of a spatial approach will be two fold. Planning authorities firstly must ensure that development avoids and then minimises impact on biodiversity and ecosystems and secondly that it provides opportunities for enhancement within areas identified as important for the ability of species to adapt and/or to move to more suitable habitats.

- 6.2.11 Planning authorities must encourage the appropriate management of features of the landscape which are of major importance for wild flora and fauna in order to complement and improve the ecological coherence of the National Site Network, formally known as the Natura 2000 network¹¹⁴ as well as SSSIs and other statutory and non-statutory designated sites. The features concerned are those which, because of their linear and continuous structure or their function as 'stepping stones' or 'wildlife corridors', are essential for migration, dispersal or genetic exchange. The protection and creation of networks of statutory and non-statutory sites and of the landscape features which provide links from one habitat to another can make an important contribution to developing resilient ecological networks and securing a net benefit for biodiversity and in doing so improve the quality of the local place and its ability to adapt to climate change.
- 6.2.12 Green Infrastructure Assessments and their data and mapped outputs must be regularly reviewed to ensure that information on habitats, species and other green features and resources is kept up-to-date. This will ensure development management decisions are informed by appropriate spatial information about the potential effects of development on biodiversity and green infrastructure functions and help identify where different types of green infrastructure benefits/ecosystems services can be secured. Planning authorities should use the best available data to establish and monitor a set of key indicators and incorporate these indicators into both their Annual Monitoring Reports (AMRs) and, where appropriate, into the appropriate Section 6 Plan and Report. Such indicators will be place-specific and may cover information on key species and habitats, opportunities for the protection, retention, restoration and recovery of nature (to secure a net benefit for biodiversity) and benefits/ecosystem services which contribute to the health and well-being of communities. The monitoring of the success and delivery of net benefits for biodiversity secured through conditions and obligations would usefully feed into this process in addition to any agreed management plan for the site. At the end of each reporting period planning authorities should use this data to indicate whether there has been a net benefit or loss of biodiversity; whether progress is being made on securing mitigation and enhancement measures; and they should use the trends identified to determine future priorities for planning and decision making, with the aim of furthering the goals of the Section 6 Duty.

Integrating Green Infrastructure and Development

- 6.2.5 The quality of the built environment should be enhanced by integrating green infrastructure into development through appropriate site selection and use of creative design. With careful planning and design, informed by an appropriate level of assessment, green infrastructure can embed the benefits of biodiversity and ecosystem services into new development and places, help to overcome the potential for conflicting objectives, and contribute to health and well-being outcomes.

New Paragraph

A green infrastructure statement should be submitted with all planning applications. This will be proportionate to the scale and nature of the development proposed and will describe how green infrastructure has been incorporated into the proposal. In the case of minor development this will be a short description and should not be an onerous requirement for applicants. The

green infrastructure statement will be an effective way of demonstrating positive multi-functional outcomes which are appropriate to the site in question and must be used for demonstrating how the step-wise approach (Paragraph 6.4.21) has been applied.

New Paragraph

There are multiple ways of incorporating green infrastructure, depending on the needs and opportunities a site presents, and the green infrastructure assessment should be referred to, as appropriate, in order to ascertain local priorities. Landscaping, green roofs, grass verges, sustainable drainage and gardens are examples of individual design measures that can have wider cumulative benefits, particularly in relation to biodiversity and the resilience of ecosystems as well as in securing the other desired environmental qualities of places. Wider landscape measures, such as the creation of species rich meadows, woodlands and the improvement of linkages between areas of biodiversity value should be considered for larger scale development. In most cases the green infrastructure statement should highlight any baseline data considered and surveys and assessments undertaken, including but not limited to, habitats and species surveys, arboricultural surveys and assessments, sustainable drainage statements, landscape and ecological management plans, open space assessments and green space provision and active travel links.

New Paragraph

Development proposals should be informed by the priorities identified in green infrastructure assessments and locally based planning guidance. The Building with Nature standards represent good practice and are an effective prompt for developers to improve the quality of their schemes and demonstrate the sustainable management of natural resources. Using these standards in a way which is proportionate to the nature and scale of the development proposed will be a useful way of ensuring appropriate consideration in circumstances where there is an absence of a green infrastructure assessment and planned approach or relevant local or Supplementary Planning Guidance. The standards are underpinned by an accreditation system and whenever possible, accreditation under these standards should be pursued.

6.4 Biodiversity and Ecological Networks

6.4.1 Biodiversity underpins the structure and functioning of ecosystems. It is the diversity of living organisms whether at the genetic, species, **habitat** or ecosystem level. An ecosystem is made up of living organisms, plants, animals and micro-organisms, in conjunction with their non-living environment, air, water, minerals and soil, and all the diverse and complex interactions that take place between them.

6.4.2 The Environment (Wales) Act 2016 introduced an enhanced biodiversity¹¹⁹ and resilience of ecosystems¹²⁰ duty (Section 6 Duty). This duty applies to public authorities in the exercise of their functions in relation to Wales and will help maximise contributions to achieving the well-being goals. Section 7 of the Act² **requires Welsh Ministers** to publish and maintain lists of species and types of habitats that are regarded as of 'principal importance' for the purpose of maintaining and enhancing that biodiversity³. The Nature Recovery Action Plan supports this legislative requirement to reverse the decline in biodiversity, address the underlying causes of biodiversity loss by putting nature at the heart of decision-making and increasing the resilience of ecosystems by taking specific action focused around the 6 objectives for habitats and species.

6.4.3 The planning system has a key role to play in helping to reverse the decline in biodiversity and

² <https://www.legislation.gov.uk/anaw/2016/3/section/7>

³ <https://www.biodiversitywales.org.uk/Section-7>

increase the resilience of ecosystems, at various scales, by ensuring appropriate mechanisms are in place to both protect against loss and to secure enhancement⁴. Recognising that development needs to take place and some biodiversity may be impacted, the planning system should ensure that overall there is a net benefit for biodiversity and ecosystem resilience, resulting in enhanced well-being. Addressing the consequences of climate change should be a central part of any measures to protect, maintain and enhance biodiversity and the resilience of ecosystems. Information contained in SoNaRR, Area Statements, Local Nature Plans, Local Nature Recovery Action Plans, Local Biodiversity Action Plans and held by Local Environmental Record Centres should be taken into account. Development plan strategies, policies and development proposals must consider the need to:

- support the maintenance and enhancement of biodiversity and the resilience of ecosystems;
- ensure action in Wales contributes to meeting international responsibilities and obligations for biodiversity and habitats, including the most recent targets set out in the 2022 UN Global Biodiversity Framework;
- ensure statutorily and non-statutorily designated sites and habitats are properly protected and managed and their role at the heart of resilient ecological networks is safeguarded;
- safeguard protected species and species of principal importance and existing biodiversity assets from direct, indirect or cumulative adverse impacts that affect their nature conservation interests and compromise the resilience of ecological networks and the components which underpin them, such as water, air and soil, including peat; and
- secure the maintenance and enhancement of ecosystem resilience and resilient ecological networks by improving diversity, extent, condition, and connectivity.

6.4.4 It is important that biodiversity and ecosystem resilience considerations are taken into account at an early stage in both development plan preparation and when proposing or considering development proposals. Since these considerations are not confined by administrative boundaries, nor by sectoral activity or regulatory regimes, they must be addressed strategically through consultation and collaboration with adjoining planning authorities and other bodies such as NRW and the third sector. All reasonable steps must be taken to maintain and enhance biodiversity and promote the resilience of ecosystems and these should be balanced with the wider economic and social needs of business and local communities. Where adverse effects on biodiversity and ecosystem resilience cannot be avoided, minimised or mitigated/restored, and as a last resort compensated for, it will be necessary to refuse planning permission.

Biodiversity and Resilience of Ecosystems Duty (Section 6 Duty)

6.4.5 Planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means development should not cause any significant loss of habitats or populations of species (not including non native invasive species), locally or nationally and must work alongside nature and it must provide a net benefit for biodiversity and improve, or enable the improvement, of the resilience of ecosystems. A net benefit for biodiversity is the concept that development should leave biodiversity and the resilience of ecosystems in a significantly better state than before, through securing immediate and long-term, measurable and demonstrable benefit, primarily on or immediately adjacent to the site. The step-wise approach outlined below is the means of demonstrating the steps which have been taken towards securing a net benefit for biodiversity. In doing so, planning authorities must also take account of and promote the resilience of ecosystems, in particular the following attributes, known as the

⁴ Resilient ecological networks are vital for nature recovery and are networks of habitat in good ecological condition linking protected sites and other biodiversity hotspots across the wider landscape, providing maximum benefit for biodiversity and well-being (Future Wales, Policy 9).

DECCA Framework⁵:

- diversity between and within ecosystems;
- the extent or scale of ecosystems;
- the condition of ecosystems including their structure and functioning;
- the connections between and within ecosystems; and
- adaptability of ecosystems including their ability to adapt to, resist and recover from a range of pressures likely to be placed on them through climate change for example.

6.4.6 In fulfilling this duty, planning authorities must also have regard to:

- the list of habitats and species of principal importance for Wales, published under Section 7 of the Environment (Wales) Act 2016;
- the SoNaRR, published by NRW;
- any Area Statement, published by NRW, that covers all or part of the area in which the authority exercises its functions and NRW's Nature Network Maps⁶ and
- guidance given to public authorities by Welsh Ministers under Section 6 of the Environment (Wales) Act.

6.4.7 Planning Authorities should also refer to up to date ecological survey information (where appropriate) and consider local ecological information submitted by recognised environmental organisations.

6.4.8 A proactive and creative approach towards facilitating the delivery of biodiversity and ecosystem resilience outcomes must be taken by all those participating in the planning process (including the third sector and communities) as small scale interventions contribute to a national scale resilience. In particular, planning authorities must demonstrate that they have sought to fulfil the duties and requirements of Section 6 of the Environment (Wales) Act by taking all reasonable steps to maintain and enhance biodiversity in the exercise of their functions¹²¹. This will require action to be taken at the plan level, and ideally through co-ordinated action across regions and sub-regions. Such action should facilitate the implementation of the Section 6 duty at the level of individual development proposals by setting a broad framework of opportunities for achieving a net benefit for biodiversity. The step-wise approach will help guide decision makers in securing a net benefit for biodiversity and the onus is on developers to bring forward proposals in a way which will achieve a net benefit for biodiversity demonstrating how they have used the step wise approach.

New Paragraph

Collaborative arrangements

It may not be possible for planning authorities to identify opportunities for a net benefit for biodiversity within their own administrative boundaries and co-operation may be needed to identify, capture and monitor net benefits for biodiversity across larger areas, making use of existing regional mechanisms or setting up new voluntary arrangements. Collaboration on this basis will mean exploring ways in which land may be identified and set aside to deliver net benefits for biodiversity and establishing where contributions could come forward towards the funding of nature recovery projects. It may also be possible as part of a co-ordinated approach

⁵ <https://cdn.cyfoethnaturiol.cymru/media/696279/ecosystem-resilience-in-a-nutshell-1-what-is-ecosystem-resilience.pdf>

⁶ https://datamap.gov.wales/layergroups/geonode:nrw_habitat_network
https://datamap.gov.wales/layergroups/geonode:nrw_priority_ecological_networks

to establish a position where net benefits for biodiversity are banked in advance of smaller scale developments coming forward. Net benefits for biodiversity would need to be monitored to ensure they are not lost to future development and that development proposals do not impact existing and previously agreed areas of net benefit for biodiversity⁷.

- 6.4.9 The broad framework for implementing the Section 6 Duty, securing a net benefit for biodiversity and building resilience through the planning system includes addressing all of the following attributes:

Implementing the Section 6 Duty: The DECCA Framework

Diversity: at a biological level, including at the genetic, species, habitat, ecosystems or sea/landscape scale, as well as at the geological and physical level underpins biodiversity, resilient ecosystems, their functioning and the delivery of important ecosystem services. More diverse ecosystems are more resilient to external influences (this includes biological, geological and physical diversity on a site). This means strategic planning and individual development proposals should avoid negative impacts on biodiversity, by considering how biodiversity assets, can be maintained and enhanced;

Extent: to ensure mechanisms allow for the identification of potential habitat, the maintenance of existing biodiversity assets and networks and promote the restoration of damaged, modified or potential habitat and the creation of new additional habitat, as ecosystems which are small in extent are less resilient to external influences. This means that strategic planning and individual development proposals must avoid loss in the extent of biodiversity and incorporate measures to appropriately maintain and enlarge existing habitats, especially where extent is small or declining, through habitat restoration and creation with adjoining and nearby areas, green infrastructure features and networks;

Condition: Ecosystems and biodiversity assets need to be in a healthy condition to function effectively, to deliver a range of important ecosystem services and be more resilient to external influences. Ecosystem health can be adversely affected by a range of pressures including land use and climate change, pollution, Invasive Non-Native Species and over exploitation as set out in SoNaRR. Good condition requires sufficient scale and functioning natural processes or appropriate management to provide structural complexity and sustain diverse mosaics of habitats. Strategic planning and individual development proposals must not compromise the condition of ecosystems. By taking an integrated landscape approach to development, for example, which considers both direct, indirect and cumulative impacts and benefits, and seeks to reduce pressures it should be possible to make a positive contribution. Planning for and securing the long term management of retained habitats is key to maintaining condition through for example, the use of planning obligations;

Connectivity: to take opportunities to develop functional and physical connectivity of biodiversity and ecological networks within and between ecosystems and across landscapes, building on existing connectivity and quality and encouraging habitat creation, restoration and appropriate management, including the links within and between habitats, allows species to forage, breed and migrate and respond to climate change and other pressures, as well as enabling the flow of natural processes (however, measures should be taken to prevent undesired flows such as INNS and nutrients). The opportunities to be taken at a strategic level could include enlarging habitat areas, developing buffers around designated sites or other biodiversity assets or corridors, including transport and river corridors, removal of barriers and the creation of 'stepping stones' which will strengthen the ability of habitats and ecological networks to adapt

⁷ Potential for a task and finish group to consider possible options.

to change, including climate change. Individual development proposals should identify and incorporate measures which enable appropriate links to be made between the site and its surroundings so as to improve connectivity.; and

Adaptation: resistance and recovery from pressures arise when the attributes of ecosystem resilience – diversity, extent, condition and connectivity of ecosystems are in good condition. Habitats and species are not static: planning for nature recovery should aim to sustain habitats and associated species as the geography and land use changes around them, harnessing natural processes and opportunities for nature-based solutions. This means that strategic planning and individual development proposals should identify impacts to the ecosystem resilience attributes of biodiversity, using the pressures identified in SoNaRR. They should incorporate measures to ensure that biodiversity’s ability to adapt to, resist and recover from pressures is enhanced. Enhancement of resilient ecological networks and securing and enhancing green infrastructure will be key ways of achieving this, as well as facilitating social and economic resilience aspirations of the Well-being of Future Generations Act.

Maintaining and Enhancing Biodiversity

- 6.4.21 Planning authorities must follow a step- wise approach to maintain and enhance biodiversity, build resilient ecological networks and deliver net benefits for biodiversity by ensuring that any adverse environmental effects are firstly avoided, then minimized, mitigated, and as a last resort compensated for. Enhancement must be secured by delivering a biodiversity benefit primarily on site or immediately adjacent to the site, over and above that required to mitigate or compensate for any negative impact.

New Paragraph

Having worked iteratively, in line with Figure 1X, through the stages of the step-wise approach below, and providing evidence in the Green Infrastructure Statement that the step-wise approach has been followed, a scheme of enhancements must be provided to ensure a net benefit for biodiversity. Where biodiversity enhancement proportionate to the scale and nature of the development is not proposed as part of an application, significant weight will be given to its absence, and unless other significant material considerations indicate otherwise, it will be necessary to refuse permission. Enhancement measures could include on-site, locally relevant, habitat creation and/or could be part of the development itself favouring the use of native species using biodiverse nature-based solutions such as SUDS, green roofs, grassland management for wildflowers or reptile refugia, woodland expansion, and wetland creation.

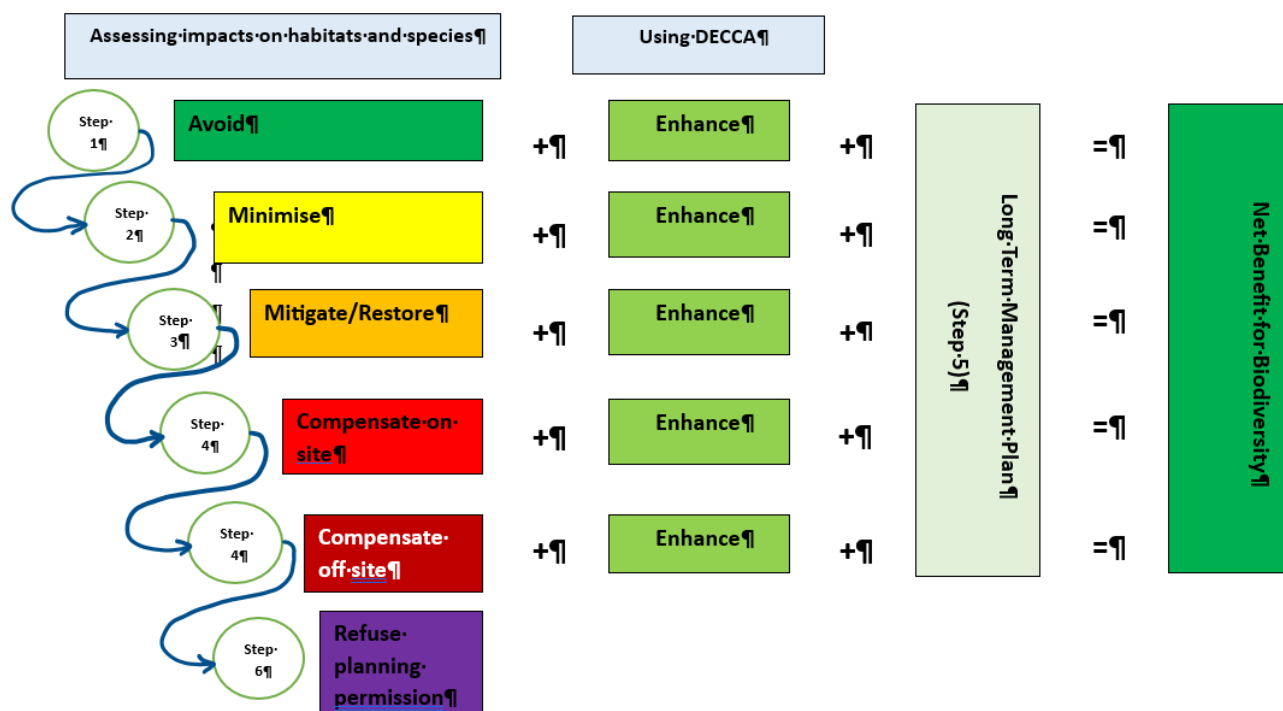
New paragraph

Improving ecosystem resilience, particularly improving connectivity to the immediate surroundings, would be a key contribution to on-site avoidance, minimisation, and mitigation strategies and enhancement. How a development would improve the attributes of resilience should be demonstrated as far as this is reasonably practical.

New Paragraph

Planning authorities can ensure biodiversity enhancement is undertaken at each stage of the step-wise approach below through attaching planning conditions and/or other obligations to a planning permission. Planning authorities should take care to ensure that any conditions necessary to implement this policy are, relevant to planning, and the development to be permitted, enforceable, precise, and reasonable in all other respects.

Figure 1X: Summary of the Step-Wise Approach



The Step-Wise Approach

1. a) The first priority for planning authorities is to avoid damage to biodiversity in its widest sense (i.e. the variety of species and habitats and their abundance) and ecosystem functioning. Where there may be harmful environmental effects, planning authorities will need to be satisfied that any reasonable alternative sites (including alternative siting and design options) that would result in less harm, no harm or benefit have been fully considered.
- b) Proposals in statutory designated sites are, as a matter of principle unacceptable, and therefore must be excluded from site searches undertaken by developers. This principle also extends to those sites containing protected species and habitats which are irreplaceable⁸ and must be safeguarded. Such sites form the heart of resilient ecological networks and their role and the ecosystem services they provide must be protected, maintained and enhanced and safeguarded from development. It will be wholly exceptional for development to be justifiable in such instances.
2. When all locational, siting and design options for avoiding damage to biodiversity have been exhausted, applicants, in discussion with planning authorities must seek to minimise the initial impact on biodiversity and ecosystems by:
 - maintaining the largest possible area of existing habitat supporting biodiversity and functioning ecosystems, particularly Section 7 habitats and species where present, by minimising development size and appropriate orientation on site, paying due regard to the potential for continued long term maintenance and management of retained areas to benefit biodiversity;

⁸ Habitats, including the natural resources which underpin them, which would be technically very difficult (or take a very significant time) to restore, recreate or replace once destroyed, taking into account their age, uniqueness, species diversity or rarity. Examples include, ancient woodland and veteran trees, ancient hedgerows, wet woodlands, sand dunes, peatland, species rich grassland, long undisturbed soils, blanket bog, salt marsh and lowland fen.

- ensuring that retained habitats continue to be well connected to adjacent habitats to provide connectivity for key species and ensuring that the favourable conservation status of local species populations is maintained;
 - retaining existing features, develop a management plan for their future care (e.g., trees, hedgerows, species rich grasslands, heath, wetlands, ponds and freshwater habitats) and use appropriate buffers to protect these from construction and operational impacts, and
 - using proven innovative/creative solutions (where required) to minimise damage and maintain existing biodiversity features and ecosystems in tandem with robust monitoring and rectification strategies.
3. a) Where, after measures to minimise impact, biodiversity and ecosystems could still be damaged, or lost through residual impacts, the proposed development should mitigate that damage. Mitigation measures must be put in place to limit the negative effects of a development.
- 3.b) Effective mitigation or restoration measures should be incorporated into the design proposal following the consideration of steps one and two above. Mitigation or restoration measures must be designed to address the specific negative effects by repairing damaged habitats and disturbed species. They should seek to restore in excess of like for like, accounting for disturbance and time lags for the recovery of habitat and species, and in every case, mitigation or restoration measures should seek to build ecosystem resilience within the site and where possible the wider area. In some circumstances, where like for like mitigation measures are not possible, particularly in respect of restoration measures, it may be necessary to consider on site compensation measures in the first instance. In designing mitigation measures where uncertainty exists, applicants should follow the precautionary principle and assume a significant effect. Off-site compensation measures (as set out in step four below) should be considered as a last resort.
4. When all the steps above have been exhausted, and where modifications, alternative sites, conditions or obligations are not sufficient to secure biodiversity outcomes further on-site/immediately proximate, and as a last resort off-site compensation for unavoidable damage must be provided. This must be of significant magnitude to fully compensate for any loss.

In the absence of a planned approach, compensation measures must be guided by place-based evidence and the onus is on applicants to address the following:

- a. Off-site compensation should normally take the form of habitat restoration, or habitat creation, or the provision of long-term management agreements to enhance existing habitats and deliver a net benefit for biodiversity. It should also be informed by a full ecological assessment to establish a formal baseline before habitat creation or restoration starts and secured far enough in advance before the loss of biodiversity on site.
- b. The Green Infrastructure Assessment should be used to identify suitable locations for securing off-site compensation. Where possible, a landscape-scale approach, focusing on promoting wider ecosystem resilience, should help guide locations for compensation. The Green Infrastructure Assessment should provide a spatial guide to opportunities already identified for securing a net benefit for biodiversity. Using the assessment will help determine whether locations for habitat compensation should be placed close to the development site, or whether new habitat or additional management located further away from the site would best support biodiversity and ecosystem resilience at a wider

scale.

- c. Where compensation for specific species is being sought, the focus should be on maintaining or enhancing the population of the species within its natural range. This approach might also identify locations for providing species-specific compensation further away from the site. Where they exist, Spatial Species Action Plans should be used to help identify suitable locations.
 - d. Any proposed compensation should be place based, take account of the Section 6 Duty (Biodiversity and Resilience of Ecosystems Duty), the DECCA framework and appropriate ecological advice from the local authority Ecologist, NRW and, or a suitably qualified ecologist.
5. Each stage of the step-wise approach must be accompanied by a long term management plan of agreed and appropriate avoidance, minimisation, mitigation/restoration and compensation measures alongside the agreed enhancement measures. The management plan should set out the immediate and on-going management of the site, future monitoring arrangements for all secured measures and it should clearly identify the funding mechanisms in place to meet the management plan objectives. The management plan must set out how a net benefit for biodiversity will be achieved within as short a time as possible and be locally responsive and relevant to local circumstances.
- 6 Finally, where the adverse effect on biodiversity and ecosystem resilience clearly outweighs other material considerations, the development should be refused.

New paragraph

The following factors will affect the implementation of the above step-wise approach:

- Pre-application surveys, research and data searches by developers will be necessary to establish the baseline state of biodiversity and ecosystem resilience on site taking into account the site's contribution to resilient ecological networks through its diversity, extent, connectivity and condition and the provision of ecosystem services.⁹ For householder scale applications, planning authorities should outline expectations regarding information required to accompany an application, recognising that the enhancement measures sought should be proportionate to the scale of the application. Understanding the ecological context of a development will be essential in facilitating/enabling a proportionate response to the significance of any potential impact.
- Potential applicants should not conduct any pre-emptive site clearance works before submitting a planning application as this can make it more difficult for a development proposal to secure a net benefit for biodiversity. Where a site has been cleared prior to development its biodiversity value should be deemed to have been as it was before any site investigations or clearance took place. A net benefit for biodiversity must be achieved from that point. Habitat status can be established through evidence remaining on site and local desk-based assessments (planning authorities must ensure that they have access to these data sources). In such cases, habitat status will be presumed to be good in the absence of any evidence to the contrary.
- All development must deliver a net benefit for biodiversity and ecosystem resilience from the baseline state (proportionate to the scale and nature of the development proposed). Even if the biodiversity value has been maintained, there must still be a pro-active process to look for and secure enhancement through the design and implementation of the development.

Where sites are already allocated in an adopted development plan it may not be possible to follow the step-wise approach in a sequential way, because certain progress towards fulfilling the allocations

⁹ Note that surveys must be carried out at an appropriate time of year.

may have been made. However, when plans are to be reviewed then allocations should be considered afresh against the step-wise policy and in light of their present biodiversity condition and the role they may play in enhancing ecosystem resilience. In such circumstances it may be necessary to de-allocate sites. Where sites have progressed to a degree that it may not be possible to de-allocate them, then effects should be minimised and potential mitigation, and as a last resort, compensation identified and be capable of being secured.

Designated Sites

6.4.10 Many of the most important areas for biodiversity have been statutorily or non-statutorily designated. These sites make a vital contribution to protecting biodiversity, maintaining the resilience of ecosystems and can also be important in providing opportunities for achieving wider well-being objectives.

6.4.11 International, national and local designations are governed by different statutory and non-statutory requirements. Further guidance, particularly in relation to the National Site Network, is contained in TAN 5: Nature Conservation and Planning. Whilst the process of designation may differ, all designated sites must be able to continue to protect the biodiversity and features for which they were designated and contribute to the resilience of ecosystems at the appropriate scale. This ability should not be compromised by inappropriate development or other activity.

Protection and Management of Designated Sites

6.4.15 Statutorily designated sites must be protected from damage and deterioration, with their important features conserved and enhanced by appropriate management. The contribution of the designated site to wider resilient ecological networks should be recognised and captured as part of a strategic approach to planning policy and decision making. The links between planning and wider management activity for the restoration and recovery of nature should be made. Complementary, and joint, action between all sectors and beyond the boundaries of the designated sites themselves is necessary to improve extent, connectivity and adaptability and address the nature emergency.

6.4.12 The supporting reasoning for the designation at all levels and an outline of the qualifying features of the designation should be clearly recorded as part of the Green Infrastructure Assessment and considered in formulating development plans, when designing new development proposals and in development management decisions.

6.4.13 As part of a Green Infrastructure Assessment it may be necessary to differentiate between the relative significance of the designation, when considering the value of the nature conservation interests and the weight to be attached to this value in respect of development proposals. It should be recognised that all designated sites will have a unique and important role as part of ensuring resilient ecological networks and this contribution may be equally as important in a local context as its designation status.

Figure 12: Designated Sites

| Designation | Statutory or Non-Statutory | Interaction with Step-wise Approach |
|--|--|--|
| Special Area of Conservation | Statutory | Avoid |
| Special Protection Area | Statutory | |
| RAMSAR Sites | Statutory | |
| Site of Special Scientific Interest | Statutory | |
| National Nature Reserve | Statutory | |
| UNESCO Biosphere Reserve | Non-Statutory | Apply Step-wise Approach to determine |
| UNESCO Geoparks | Non-Statutory | |
| Sites of Importance for Nature Conservation | Non-Statutory | |
| Local Nature Reserve | Non-Statutory | |
| Local Wildlife Sites | Non-Statutory | |
| Regionally Important Geodiversity Sites (RIGS) | Non-Statutory | |
| Potential National Natural Resources Areas (Future Wales) | Development Plan | |
| Resilient Ecological Networks (RENs)/Nature Network Maps (NRW) | Area Statements/Green Infrastructure Assessments | |

6.4.16 Planning authorities should consider opportunities to restore networks of habitats to a healthy condition identified as a result of undertaking the Green Infrastructure Assessment and the identification of appropriate interventions to secure delivery against the attributes of resilience, namely, diversity, extent, connectivity, condition and adaptability. This includes identifying opportunities for restoration and nature recovery even if this is beyond its own administrative boundaries. Taking a spatial approach which, for example, identifies buffer zones around designated sites or stepping stones to improve connectivity between them will strengthen the ability of designated sites to fully perform their role at the heart of resilient ecological networks and to encourage nature recovery on a larger scale.

Sites of Special Scientific Interest

6.4.17 SSSIs are of national importance. The Wildlife and Countryside Act 1981, as amended by the Countryside and Rights of Way Act 2000, places a duty on all public bodies, including planning authorities, to take reasonable steps, consistent with the proper exercise of their functions, to further the conservation and enhancement of the features by reason of which a SSSI is of special interest. SSSIs can be damaged by developments within or adjacent to their boundaries, and in some cases, by development some distance away.

New paragraph

Development in a SSSI which is not necessary for the management of the site must be avoided. This is a matter of principle to ensure that these sites can continue to fulfil their role at the heart of resilient ecological networks. What may be necessary for the management of a site will need to be considered on a case by case basis but it is likely to be limited to activities needed to meet its conservation objectives, including restoration and nature recovery, as well as site management infrastructure, natural flood management and other appropriate nature based solutions. There may be desirable interventions in SSSIs relating to public access, active travel, educational projects and other minor development necessary to secure its role as a living landscape. This may include agricultural development, such as new barns, slurry stores, etc. required to reduce pollution, barn conversions to support tourism or other alterations or extensions to existing houses or buildings on existing

employment sites where effects on the features for which a site has been designated can be considered to be acceptable.

- 6.4.17 There is a presumption against all other forms of development in a SSSI as a matter of principle and this presumption should be appropriately reflected in development plans and development management decisions. There is also a presumption against development not within a SSSI but likely to damage a SSSI. In such cases, proposals must be carefully assessed to ensure that effects on those nature conservation interests which the designation is intended to protect are clearly understood and development should be refused where there are adverse impacts on the features for which a site has been designated. International and national responsibilities and obligations for conservation should be fully met, and, consistent with the objectives of the designation, statutorily designated sites should be protected from damage and deterioration, with their important features conserved and enhanced and the capacity for restoration demonstrated by and through appropriate management.

New paragraph

In wholly exceptional circumstances and only where development is considered to be appropriate and is not likely to damage a SSSI and there is broad and clear agreement for mitigation and enhancement as part of a development plan should development be proposed. This means that development will be considered unacceptable in the absence of an agreed position in a development plan which indicates that it is acceptable in terms of its effect on the notified features of a SSSI.

- 6.4.17 Before authorising development outside of a SSSI but likely to damage any of the notified features of a SSSI, planning authorities must give notice of the proposed operations to NRW, and must take its advice into account in deciding whether to grant planning permission and in attaching planning conditions. Where local planning authorities are minded to grant planning permission against the advice of NRW they must notify Welsh Ministers.

For the purposes of landuse planning proposed SSSIs will be treated in the same way as notified SSSIs.

Special Protection Areas, Special Areas of Conservation and Ramsar Sites

- 6.4.18 SACs and SPAs are of European importance. Under the Conservation of Habitats and Species Regulations (2017) (the Habitats Regulations), all public bodies (including planning authorities) must have regard to the requirements of the EC Habitats and Birds Directives when carrying out their functions. SACs and SPAs on land are underpinned by notification as SSSIs and hence subject to protection afforded by the SSSI provisions. Before authorising development or adopting a land use plan which is likely to have a significant effect on a SAC or SPA (including where outside the boundary of the SAC or SPA), planning authorities must carry out an appropriate assessment of the implications for the designated features, consult NRW and have regard to NRW's representations.

The development can normally only be authorised or the plan adopted, if the planning authority ascertains that it will not adversely affect the integrity of the site, if necessary taking into account any additional measures, planning conditions or obligations. Development or policies in land use plans for which there is no alternative solution and which must be carried out for imperative reasons of over-riding public interest may be authorised notwithstanding a negative assessment of the implications, subject to notifying Welsh Ministers.

Any necessary compensatory measures to protect the overall coherence of the network of SACs and SPAs must be secured. Ramsar sites are important wetland areas designated under the Ramsar Convention on Wetlands of International importance. As with SACs and SPAs, Ramsar sites are underpinned by notification as SSSIs and hence subject to the Habitats Regulations. However,

Ramsar sites should be treated within the planning system in the same way as SACs and SPAs. Further information on Habitats Regulations Assessment is contained in TAN 5: Nature Conservation and Planning.

Proposed Special Areas of Conservation, Special Protection Areas and Ramsar sites

- 6.4.19 Sites which have been formally proposed as SPAs, SACs but which are not yet subject to legal protection under the Habitats Regulations, should be treated within the planning system in the same way as if they were legally designated. The same considerations should, as a matter of policy, be applied to proposed Ramsar sites.

Protection for Non-statutory Designations

- 6.4.20 Although non-statutory designations do not have a statutory process for their protection Sites of Importance for Nature Conservation, Local Wildlife Sites, Local Nature Reserves, and Regionally Importance Geodiversity Sites make a vital contribution to delivering an ecological network for biodiversity and resilient ecosystems, and they should be given protection in development plans and the development management process. Non-statutory sites can form the core of a vital network of threatened habitats, play an essential role in protecting, maintaining, connecting and restoring biodiversity and contribute to nature recovery and a net benefit for biodiversity. Before authorising development likely to damage a local wildlife designation, planning authorities should give notice of the proposed operation to the local authority Ecologist and third sector environmental organisations. In all cases a written opinion must be secured from the local authority Ecologist. Where a Green Infrastructure Assessment has identified that certain features or characteristics of the site need to be maintained or enhanced, planning authorities should state in their development plans what features or characteristics require protection and why, and explain how the policies will achieve this protection. Assessments should similarly consider the presence of protected and priority habitats and species including those on the Section 7 list and appropriate weight attached to their protection.

New Paragraph

Where, for reasons of scale, local authorities have decided not to map non-statutory designations on a proposals or a constraints map, development plans should include a criterion-based policy to provide for sites that meet the qualifying criteria for non-statutory designation (including those sites that are currently unidentified); these sites carry equal weight to mapped sites.

New paragraph

Policies for non-statutory sites should make it clear that such designations do not preclude appropriate developments, where there are no adverse impacts on the features for which a site is designated and on wider ecosystem resilience. Where harm is unavoidable it should be minimised by mitigation measures and offset as far as possible by compensation measures designed to ensure there is no reduction in the overall conservation value of the area or feature,¹⁰ and a net benefit for biodiversity secured.

Peatlands

New paragraph

Peat soils are extremely fragile and if compromised put at risk the resilience of the ecosystems they support. Peatland habitats cover only 3-4% of Wales yet store in the region of 20-25% of all soil carbon. Where peat is identified within proposed developments considerable weight should be given to its protection because of its special importance in underpinning and supporting national natural resources such as soil carbon, biodiversity and flood management, and unless other significant material considerations indicate otherwise it will be necessary to refuse permission. When considering criterion 1 of the step-wise approach and when undertaking the search sequence in the preparation of development plans access to information will be important and Welsh Government have made available the Peatlands of Wales map as a first step to assist in identifying peatland

¹⁰ refer to paragraph 5.5.3 of TAN 5 Nature Conservation and Planning

locations.¹¹

Protected Species

- 6.4.22 The presence of a species protected under European or UK legislation, or under Section 7 of the Environment (Wales) Act 2016 is a material consideration when a planning authority is considering a development proposal which, if carried out, would be likely to result in disturbance or harm to the species or its habitat and to ensure that the range and population of the species is sustained. Planning authorities should advise anyone submitting a planning application that they must conform with any statutory species protection provisions affecting the site, and potentially the surrounding area, concerned. An ecological survey to confirm whether a protected species is present and an assessment of the likely impact of the development on a protected species may be required in order to inform the development management process. It is considered best practice that screening to determine the presence of protected species should be carried out by a competent ecologist on the basis of data provided by the relevant Local Environmental Record Centre.¹²³
- 6.4.23 Developments are always subject to the legislation covering European protected species regardless of whether or not they are within a designated site. Proposals for which development works would contravene the protection afforded to European protected species require derogations from the provisions of the Habitats Directive. A derogation may only be authorised if there is no satisfactory alternative and if the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range. The development works to be authorised must be for the purposes of preserving 'public health or safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment'. Derogations are granted by a licence issued by NRW who should notify planning authorities when a licence application has been granted. Planning authorities are under a duty to have regard to the requirements of the Habitats Directive in exercising their functions. To avoid developments with planning permission subsequently not being granted derogations in relation to European protected species, planning authorities must take the above three requirements for derogation into account when considering development proposals where a European protected species is present.

Trees, Woodlands and Hedgerows

- 6.4.24 Trees, hedgerows, groups of trees and areas of woodland are of great importance for biodiversity. They are important connecting habitats for resilient ecological networks and make an essential wider contribution to landscape character, culture, heritage and sense of place, air quality, recreation and local climate moderation. They also play a vital role in tackling the climate emergency by locking up carbon, and can provide shade, shelter and foraging opportunities, wider landscape benefits such as air and diffuse pollution interception, natural flood management, and building materials. The importance of trees, in particular urban trees, in creating distinctive and natural places which deliver health and well-being benefits to communities, now and in the future should be promoted as part of plan making and decision taking¹²⁴. Planning authorities must promote the planting of new trees, hedgerows, groups of trees and areas of woodland as part of new development.

New paragraph

Welsh native tree and hedge species, characteristic of the local area, provide a strong ecosystem

¹¹ Peatland Data Portal

<https://smnr-nrw.hub.arcgis.com/apps/d18ef8c74ecc4dc4a0c0f71ab0933ba0/explore>

<https://naturalresources.wales/evidence-and-data/maps/the-national-peatland-action-programme/?lang=en>

resilience function, and they provide resources for local wildlife, particularly other native plants and species. Native tree and hedge species can also complement opportunities for natural regeneration. Alongside broader woodland habitat types, such as wood pasture, parkland and traditional orchards, native tree and hedge species help to define our cultural heritage and landscape, creating a strong sense of place and connection to the past.

- 6.4.25 Planning authorities must protect trees, hedgerows, groups of trees and areas of woodland where they have ecological value, contribute to the character or amenity of a particular locality, or perform a beneficial green infrastructure function¹². Planning authorities should consider the importance of trees and woodland, particularly native woodland and valued trees, and should have regard to local authority tree strategies or SPG and the Green Infrastructure Assessment. Planning authorities should adopt appropriate, locally relevant, time sensitive, minimum tree canopy cover targets for their authority area to guide the protection and where appropriate the expansion of canopy cover. The Green Infrastructure Assessment and tools such as NRW's Tree Cover in Wales' Towns and Cities study and Forest Research's i-Tree Eco tool will help establish a baseline of canopy cover and guide the identification of appropriate and measurable canopy targets.¹³ Tools to help with design and species choice in urban areas are also available.¹⁴

New paragraph

Where trees, woodland and hedgerows are present, their retention, protection and integration should be identified within planning applications. Where surveys identify trees, hedgerows, groups of trees and areas of woodland capable of making a significant contribution to the area, these trees should be retained and protected. The provision of services and utilities infrastructure to the application site should also avoid the loss of trees, woodlands or hedges and must be considered as part of the development proposal; where such trees are lost, they will be subject to the replacement planting ratios set out below.

New paragraph

Whilst most focus within the planning system is targeted at urban trees, planning authorities should recognise the importance of trees within the countryside, either as woodlands, within hedgerows and hedgebanks, or free-standing trees in fields, or as wood pasture. This is particularly important as the effects of climate change are leading towards pests and diseases that are damaging many of our native species in the rural landscape. Positive mechanisms of rural tree retention should be considered, and measures taken to replace them in an effective and economic manner, either with new planting or by allowing them to grow to their full potential.

- 6.4.25 Permanent removal of trees, woodland and hedgerows will only be permitted where it would achieve significant and clearly defined public benefits. Where individual or groups of trees and hedgerows are removed as part of a proposed scheme, planning authorities must first follow the step-wise approach as set out in paragraph 6.4.21. Where loss is unavoidable developers will be required to provide compensatory planting (which is proportionate to the proposed loss as identified through an assessment of green infrastructure value including biodiversity, landscape value and carbon capture). Replacement planting shall be at a ratio equivalent to the quality, environmental and ecological importance of the tree(s) lost and this must be preferably

¹² British Standard – BS5837:2012 Trees in relation to design, demolition and Construction – Recommendations

¹³ <https://naturalresources.wales/about-us/what-we-do/our-roles-and-responsibilities/green-spaces/urban-trees/?lang=en>

¹⁴ <https://naturalresources.wales/urbantrees?lang=en>

<https://naturalresources.wales/guidance-and-advice/environmental-topics/woodlands-and-forests/?lang=en>

<https://naturalresources.wales/about-us/what-we-do/our-roles-and-responsibilities/green-spaces/?lang=en> <https://www.tdag.org.uk/our-guides.html>

onsite, or immediately adjacent to the site, and at a minimum ratio of at least 3 trees of a similar type and compensatory size planted for every 1 lost. Where a woodland or a shelterbelt area is lost as part of a proposed scheme, the compensation planting must be at a scale, design and species mix reflective of that area lost. In such circumstances, the planting rate must be at a minimum of 1600 trees per hectare for broadleaves, and 2500 trees per hectare for conifers. The planting position for each replacement tree shall be fit to support its establishment and health, and ensure its unconstrained long-term growth to optimise the environmental and ecological benefits it affords.

- 6.4.26 Ancient woodland, semi-natural woodlands, individual ancient, veteran and heritage trees and ancient hedgerows are irreplaceable natural resources, and have significant landscape, biodiversity and cultural value. Such trees, woodlands and hedgerows are to be afforded protection from development which would result in their loss or deterioration unless very exceptionally there are significant and clearly defined public benefits; this protection must prevent potentially damaging operations and their unnecessary loss¹⁵. In the case of a site recorded on the Ancient Woodland Inventory, authorities should consider the advice of NRW. Planning authorities should also have regard to the Ancient Tree Inventory, work to improve its completeness and use it to ensure the protection of trees and woodland and identify opportunities for more planting as part of the Green Infrastructure Assessment, particularly in terms of canopy cover.
- 6.4.27 The protection and planting of trees and hedgerows should be delivered, where appropriate, through locally-specific strategies and policies, through imposing conditions when granting planning permission, and/or by making Tree Preservation Orders (TPOs)¹²⁵. They should also be incorporated into Green Infrastructure Assessments and plans.

6.6 Water and Flood Risk¹³²

- 6.6.1 As well as a direct requirement for life, well planned water services provide a range of benefits and services for society. The water industry itself is a source of green jobs and water services support energy and food production, recreation and tourism and connect homes and businesses to the infrastructure networks upon which they depend. As well as this existing natural ecosystems, green infrastructure features and nature based solutions play an important role in providing water quality and flood management.
- 6.6.5 The Welsh Government aims to secure the provision of water services whilst minimising adverse impacts on the environment, amenity, health and communities, in light of the consequences of climate change. Development which is poorly designed or badly located can exacerbate problems associated with resource depletion, exposure to surface water flooding and diffuse pollution. The planning system should:
- protect and improve water resources and quality by promoting and encouraging increased efficiency and demand management of water as part of new developments, particularly in those areas where water resources may be under pressure or may not be available and where failure of water quality standards needs to be addressed;
 - ensure that the infrastructure networks, including nature based solutions, on which communities and businesses depend is adequate to accommodate proposed development, and takes into consideration the impacts of climate change, so as to minimise risk to human health and the environment and prevent pollution at source;
 - ensure sustainable drainage systems are an integral part of design approaches for new development; and

¹⁵ Further advice in relation to ancient woodland is available on NRW's website.

- ensure the protection of the quantity and quality of surface and ground water supplies is taken into account as part of development proposals.

6.6.6 The ability of the planning system to protect water features and foster sustainable water management as key attributes of attractive and resilient places to live is closely aligned with securing the multiple benefits of green infrastructure. Ensuring the implementation of nature based solutions through green infrastructure provision is a key preference and the multiple benefits of protecting river corridors should be maximised. The identification of managed wetland and riparian buffer zones to improve water quality should be a key output of green infrastructure assessments because they will have a positive benefit in both reducing diffuse pollution and as part of securing a net benefit for biodiversity and improving the attributes of ecosystem resilience. Embracing integrated approaches should make a contribution toward achieving the requirements imposed by EU Water Framework Directive¹³³ and ensuring the restoration of water features, protected freshwater habitats and sustainable water management along with Welsh Government policy for the integrated planning and management of water both in urban and rural areas and at a catchment scale.

This page is intentionally left blank

Appendix 2

Consultation Response Form

| | |
|--|---|
| Your name: | Cllr W Mullen-James, Lead Member for Local Development and Planning |
| Preferred contact details (email/phone/post) | Denbighshire County Council PO BOX 62 Ruthin LL15 9AZ |
| Organisation (if applicable): | Denbighshire County Council |

Q1 Do you agree with the proposed changes in section 6.2? Please explain where you disagree with the change.

Agree

Neither agree or disagree

Disagree

Paragraph 6.2.1 – The definition of Green Infrastructure (GI) should be extended to highlight the ‘multifunctional’ character that ‘green’ or ‘blue’ elements must exhibit in order to be classed as a GI feature. Greater clarity needs to be provided to meaningfully engage with developers as, for example, not every pond, road verge with grass, or play area constitutes GI per se as suggested by the text. There should be an acknowledgement that GI is transient in nature. If an element is no longer maintained to deliver multifunctional benefits, it should not be considered part of the GI network anymore. Paragraphs 6.2.2 and 6.2.3 refer to GI characteristics but the broad definition is contained in the first sentence of paragraph 6.2.1.

Paragraph 6.2.5 [new paragraph] – The requirement to submit a green infrastructure statement with planning applications is generally welcomed but there are concerns regarding the likely quality of the submissions and Local Planning Authorities’ (LPAs’) resources to challenge ‘substandard’ documents.

Paragraph 6.2.5 [new paragraph] - Does a certain type or size of development trigger a GI statement similar to Design & Access Statements (DAS)? What about

Appendix 1 – Draft Consultation Response Form

minor developments where landscaping schemes and SAB are also required? There is concern that a lot of smaller scale development will be missed out if GI statement is only required for an application needing a DAS. It's proposed to make a GI statement a validation requirement as it would be a far stronger and more meaningful approach. Concern is raised that GI could just become another 'tick box' in DAS with standard statements relating to the topic covered in the DAS but not necessarily shown on plan. Further clarity should be provided on "development proposals addressing well-being priorities and climate emergencies". Is this for every LPA to gauge/or have declared?

Paragraph 6.2.5 [new paragraph] – Is there any available guidance or training for developers, officers or ecologists on 'Building with Nature' standards? There will be the need to deal with enquiries and professionally assess any submission.

Paragraph 6.2.7 – There are resource implications for keeping GI assessments under continuous review; as GI may grow (or decline) not only because of development proposals. What does 'buffering' means in terms of "...*the retention, maintenance, buffering, restoration...*"

Paragraph 6.2.9 – Is there any merit in providing additional information on the content of Green Infrastructure Assessments in a Technical Advice Note (TAN) or Practice Guidance, rather than Planning Policy Wales?

=====

Q2 Do you agree with the proposed changes to the step wise policy in section 6.4 paragraph 6.4.21? Please explain where you disagree with the proposed changes.

Agree

Neither agree or disagree

Disagree

The step wise policy approach to maintaining and enhancing biodiversity as set out in paragraph 6.4.21 is generally supported by the Council.

=====

Appendix 1 – Draft Consultation Response Form

Q3 Do you agree with the proposed changes to designated sites in paragraphs 6.4.10–6.4.20. Please explain where you disagree with the proposed changes.

Agree

Neither agree or disagree

Disagree

Development on sites that are designated for nature conservation or biodiversity value should be avoided in perpetuity; unless the development is linked to site management.

=====

Q4 Do you agree with the proposed changes to trees and woodland in paragraphs 6.4.24-27? Please explain where you disagree with the proposed changes.

Agree

Neither agree or disagree

Disagree

Additional paragraph 6.4.25: The tree planting rates are understood to be representative of forestry enterprises and not necessarily reflective of a more natural UK woodland structure. If planting cannot be achieved through natural regeneration, it should be judged against the local woodland characteristics and adjoining landscape; ensuring biodiversity enhancement against an appropriate baseline.

=====

Q5 Do you agree with the consequential changes to section 5.14 paragraph 5.14.37? Please explain where you disagree with the proposed changes.

Agree

Neither agree or disagree

Disagree

=====

Appendix 1 – Draft Consultation Response Form

Q6 Do you agree with the consequential changes to section 6.6 paragraphs 6.6.1, 6.6.5 and 6.6.6? Please explain where you disagree with the proposed changes.

Agree

Neither agree or disagree

Disagree

=====

Q7 The proposed changes will provide a framework for the development of further guidance on the DECCA framework and a potential means of measuring whether a net benefit for biodiversity has been achieved and the resilience of ecosystems promoted. Do the proposed changes provide a sufficient framework to enable this or are there omissions which would need to be included with PPW itself? Please explain further if you consider there to be omissions which would prevent the effective development of further guidance.

Agree

Neither agree or disagree

Disagree

=====

Q8 It is considered that the order of paragraphs in section 6.4 could be changed so that the stepwise approach comes before the paragraphs on designated sites. The order of the paragraphs has been changed in the proposed changes document; do you agree with this suggestion? Please explain if you do not agree.

Agree

Neither agree or disagree

Disagree

There is no preference in terms of the order of paragraphs in section 6.4.

=====

Appendix 1 – Draft Consultation Response Form

Q9 Please also explain how you believe the proposed policy could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language, and on treating the Welsh language no less favourably than the English language.

Opportunities for people to use the Welsh language will be enhanced through identifying species of plants and living creatures by both their Welsh, English and Latin names. The location of habitats may be identified by their original and/or historic names which are likely to be in Welsh. Etymology research could lead to the discovery of a suitable Welsh title where a place may be known locally by its English name only. 19th century tithe maps are a valuable source for discovering such titles. DCC has a current policy of naming streets in the Welsh language only. Such a policy could be extended to the naming of biodiversity sites.

All signage and information boards relating to areas of biodiversity interest should be in both Welsh and English as per DCC Welsh Language Policy.

=====

Q10 We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

- 1) How to calculate (or quantify) net benefit for biodiversity and ecosystems resilience in principle when appraising development proposals? For example, if a house is to be extended that will result in reducing the extent of open ground, soil and associated habitat features. The addition of a bat or bird box will not necessarily be a biodiversity net gain despite the fact that some species receive further roost or nest niches but are likely to have less food availability. In such cases, would the LPA be able to insist on additional garden space to provide native plant species, and, hence, enhance the biodiversity?
- 2) Welsh Government is encouraged to provide greater clarity on the use and interpretation of the term 'major development' in paragraph 6.3.1. *"The following change is proposed to paragraph 6.3.10 because it is not accurate*

to definitively suggest that the meaning of major development can only be related to that which is ‘more national than local’ in character. (...) It is considered that NPAs need to be able to decide what constitutes ‘major’ depending on local context and the particular application in question and therefore paragraph 6.3.10 is proposed to be amended as follows.” Could the interpretation of the term ‘major development’ as intended by Planning Policy Wales cause confusion with the definition of ‘major development’ that is set out in article 2 of the “Town and Country Planning (Development Management Procedure) (Wales) Order 2012” for development management purposes?

Paragraph 6.3.10: *“Major developments should not take place in National Parks or AONBs except in exceptional circumstances.”* It is assumed that LPAs are able to define what ‘major development’ means in relation to AONBs?

- 3) Should a definition of ‘geodiversity’ be included in PPW, paragraph 6.0.1; for clarification and consistent interpretation?
- 4) While additional measures to gain net benefits for biodiversity are generally supported, there are likely to be impacts on the viability of new development. Did WG carry out an economic impact assessment of the new policy? Concern is raised regarding the LPA’s ability to secure urgently required affordable housing against new biodiversity requirements. There is also some concern at the potential impact on community projects where any additional costs may impact on proposals. Grant funded community projects also often have very tight timeframes for spending monies which may be impacted by additional requirements for evidence gathering.
- 5) Councils are under great financial pressure to deliver their statutory obligations within existing budgets that are continuing to decrease over the next few years. Individual (new) policy measures will require additional resources in terms of experience/ knowledge and staff (especially, monitoring and reporting). Is WG going to provide additional financial support to LPAs in order to comply with new policy?

Appendix 1 – Draft Consultation Response Form

- 6) Will there be an update to Technical Advice Note 5 as a result of the policy changes to PPW, Chapter 6?
- 7) Are there any examples in Wales that demonstrate how net benefits for biodiversity have been gained in light of the objective to provide high-density residential development in light of minimizing finite greenfield land?

| | |
|---|--|
| Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here: | |
|---|--|

This page is intentionally left blank

Appendix 3

Updated National Planning Policy for Chapter 6 of Planning Policy Wales (Summary)

Objectives/ Outcomes

The Distinctive and Natural Places theme of planning policy topics covers historic environment, landscape, biodiversity and geodiversity, coastal characteristics, air quality, soundscape, water services, flooding and other environmental (surface and sub-surface) risks. Policy updates have however been made only to the following topics: landscape, biodiversity and geodiversity, and water and flood risk. There could be further amendments with the publication of Planning Policy Wales Edition 12. While the changes to the theme's outcome are not substantial, they are repeated below to provide Members with guidance and framework for policy interpretation.

'Distinctive and Natural Places' aims to create and sustain places in which:

- *the role which landscapes, the historic environment, habitats and biodiversity, the characteristics of coastal, rural or urban environments play in contributing to Distinctive and Natural places are identified, understood, valued, protected, maintained and enhanced;*
- *further fragmentation and isolation of habitats and species is avoided, wherever possible, and wildlife corridors and stepping stones forming wider ecological networks are protected, maintained and enhanced;*
- *sites designated for their landscape or biodiversity or geodiversity importance are fully considered and their special characteristics and features protected and enhanced, whilst the series of sites should be recognised as being at the heart of improving the resilience of ecosystems;*
- *development proposals are directly shaped by the principle of retaining and enhancing existing habitats and species. This is the most cost effective and robust option for biodiversity, taking into account the benefits of a preventative approach;*
- *opportunities in all areas to improve the resilience of ecosystems are taken by addressing problems such as, building on floodplains, diffuse pollution, soil*

compaction and sealing, ensuring the protection of peat resources and improving approaches to coastal flood defence in urban areas and coastal margins;

- *opportunities to improve health and well-being are taken, in particular, to reduce average levels of airborne pollution, protect appropriate soundscapes, create areas of tranquillity, secure sustainable drainage systems, ensure water sensitive design, address soil carbon management and secure access to informal spaces for recreation through green infrastructure provision so as to improve capacity for adaptability to the challenges of climate change, such as flood risk and increased temperatures;*
- *opportunities to develop green infrastructure are taken, where this would improve the resilience of ecosystems; and*
- *support development which contributes positively to an area and addresses environmental risks which constrain potential and impact adversely on communities and the natural and built environment by using PDL or existing buildings and taking opportunities to ‘clean up’ land and address dereliction, where this is informed by the historic and natural environment.*

PPW 11 Chapter 6 (as amended) defines ‘net benefit for biodiversity’ in paragraph 6.4.5 as “*A net benefit for biodiversity is the concept that development should leave biodiversity and the resilience of ecosystems in a significantly better state than before, through securing immediate and long-term, measurable and demonstrable benefit, primarily on or immediately adjacent to the site.*”

National policy amendments with implications for Strategic Planning and Development Management

| Paragraph/ Section | Requirements |
|---------------------------------------|--|
| first new paragraph under 6.4.8 | <p>Collaboration</p> <p><i>It may not be possible for planning authorities to identify opportunities for a net benefit for biodiversity within their own</i></p> |

| | |
|-----------|--|
| | <p><i>administrative boundaries and co-operation may be needed to identify, capture and monitor net benefits for biodiversity across larger areas, making use of existing regional mechanisms or setting up new voluntary arrangements.</i></p> |
| 6.4.21 | <p>Adhering to ‘The Step-wise Approach’ (Impact on habitats and species: Avoid → Minimise → Mitigate/ Restore → Compensate on site → Compensate off site → Refuse planning permission)</p> <p>Please refer to ‘Figure 1X: Summary of the Step-Wise Approach’ and detailed description in Section ‘Maintaining and Enhancing Biodiversity’ PPW 11 Chapter 6 (as amended).</p> <p><i>Planning authorities must follow a step- wise approach to maintain and enhance biodiversity, build resilient ecological networks and deliver net benefits for biodiversity by ensuring that any adverse environmental effects are firstly avoided, then minimized, mitigated, and as a last resort compensated for.</i></p> |
| 6.4.15 | <p>Protection and Management of Designated Sites</p> <p><i>Statutorily designated sites must be protected from damage and deterioration, with their important features conserved and enhanced by appropriate management.</i></p> |
| Figure 12 | <p>Protection and Management of Designated Sites</p> <p>‘Designated Sites Hierarchy’ has been cancelled at national level (see PPW 11 Chapter 6 (as amended) Figure 12 “Designated Sites”) with development in designated sites to be assessed in line with the ‘Step-wise Approach’ (see above); principal approach - avoid any adverse effect on biodiversity in statutory site designations; apply step-wise approach to determine impact in non-statutory site designations</p> |

| | |
|----------------------------|--|
| 6.4.13 | <p>Protection and Management of Designated Sites</p> <p>Local authorities could derive a hierarchy of designated sites or protected species for their respective administrative areas with the help of Green Infrastructure Assessment.</p> <p><i>As part of a Green Infrastructure Assessment it may be necessary to differentiate between the relative significance of the designation, when considering the value of the nature conservation interests and the weight to be attached to this value in respect of development proposals.</i></p> |
| new paragraph under 6.4.17 | <p>Sites of Special Scientific Interest (SSSIs)</p> <p><i>Development in a SSSI which is not necessary for the management of the site must be avoided. This is a matter of principle to ensure that these sites can continue to fulfil their role at the heart of resilient ecological networks.</i></p> <p><i>There is a presumption against all other forms of development in a SSSI as a matter of principle and this presumption should be appropriately reflected in development plans and development management decisions. There is also a presumption against development not within a SSSI but likely to damage a SSSI.</i></p> |

National policy amendments with implications for Strategic Planning/ LDP

| Paragraph/ Section | Requirements |
|--------------------|--|
| 6.2.6 to 6.2.10 | <p>Section 6.2 sets out the principal requirements for producing Green Infrastructure Assessments in support of LDP preparation.</p> <p><i>Planning authorities must, as part of adopting a strategic and proactive approach to green infrastructure, biodiversity and</i></p> |

| | |
|----------------------------|---|
| | <i>ecosystems resilience produce, up to date inventories and maps of existing green infrastructure and ecological assets and networks.</i> |
| 6.2.12 | <p>Requirement to maintain an up-to-date GIA to assist Development Management (DM) with decision-making.</p> <p><i>Green Infrastructure Assessments and their data and mapped outputs must be regularly reviewed to ensure that information on habitats, species and other green features and resources is kept up-to-date. This will ensure development management decisions are informed by appropriate spatial information about the potential effects of development on biodiversity and green infrastructure functions.</i></p> |
| 6.4.3 | <p>LDP Evidence Base and development proposals should take account of several documents when addressing climate change.</p> <p><i>Addressing the consequences of climate change should be a central part of any measures to protect, maintain and enhance biodiversity and the resilience of ecosystems. Information contained in SoNaRR, Area Statements, Local Nature Plans, Local Nature Recovery Action Plans, Local Biodiversity Action Plans and held by Local Environmental Record Centres should be taken into account.</i></p> |
| 6.4.20 | <p>Local policy on protection of non-statutory designations</p> <p><i>Where a Green Infrastructure Assessment has identified that certain features or characteristics of the site need to be maintained or enhanced, planning authorities should state in their development plans what features or characteristics require protection and why and explain how the policies will achieve this protection.</i></p> |
| new paragraph under 6.4.20 | <p>Local policy consideration/ LDP Proposals Maps</p> <p><i>Where, for reasons of scale, local authorities have decided not to map non-statutory designations on a proposals or a constraints map, development plans should include a criterion-based policy to</i></p> |

| | |
|--|---|
| | <i>provide for sites that meet the qualifying criteria for non-statutory designation (including those sites that are currently unidentified); these sites carry equal weight to mapped sites.</i> |
|--|---|

National policy amendments with implications for Development Management

| Paragraph/ Section | Requirements |
|-----------------------|---|
| 6.2.2 | Development of Green Infrastructure (GI) is an important way to comply with Section 6 of Environment (Wales) Act 2016 duty. |
| 6.2.4 | Planning system must maximise its contribution to the protection and provision of GI assets and networks as part of meeting society's wider social and economic objectives. |
| 6.2.10 | <p>Avoiding adverse impacts on Biodiversity (requirement equally applies to the candidate site selection process as part of Strategic Planning / LDP preparation).</p> <p><i>Planning authorities firstly must ensure that development avoids and then minimises impact on biodiversity and ecosystems and secondly that it provides opportunities for enhancement within areas identified as important for the ability of species to adapt and/or to move to more suitable habitats.</i></p> |
| 6.2.12 | <p>(Long-term) Monitoring the delivery of net benefits for biodiversity.</p> <p><i>The monitoring of the success and delivery of net benefits for biodiversity secured through conditions and obligations would usefully feed into this process (i.e., monitoring) in addition to any agreed management plan for the site. At the end of each reporting period planning authorities should use this data to indicate whether there has been a net benefit or loss of biodiversity; whether progress is being made on securing mitigation and enhancement measures; and they should use the trends identified to determine future priorities for planning and decision making, with the aim of</i></p> |

| | |
|----------------------------------|---|
| | <i>furthering the goals of the Section 6 Duty.</i> |
| first new paragraph under 6.2.5 | <p>New!</p> <p><i>A green infrastructure statement should be submitted with all planning applications. This will be proportionate to the scale and nature of the development proposed and will describe how green infrastructure has been incorporated into the proposal. In the case of minor development this will be a short description and should not be an onerous requirement for applicants.</i></p> |
| second new paragraph under 6.2.5 | <p>Submission of a 'Green Infrastructure Statement' in support of planning proposals</p> <p><i>In most cases the green infrastructure statement should highlight any baseline data considered and surveys and assessments undertaken, including but not limited to, habitats and species surveys, arboricultural surveys and assessments, sustainable drainage statements, landscape and ecological management plans, open space assessments and green space provision and active travel links.</i></p> |
| third new paragraph under 6.2.5 | 'Building with Nature' standards should be used in the absence of Green Infrastructure Assessments or any planning guidance. |
| 6.4.4 | <p>When to refuse planning permission:</p> <p><i>All reasonable steps must be taken to maintain and enhance biodiversity and promote the resilience of ecosystems and these should be balanced with the wider economic and social needs of business and local communities. Where adverse effects on biodiversity and ecosystem resilience cannot be avoided, minimised or mitigated/restored, and as a last resort compensated for, it will be necessary to refuse planning permission.</i></p> |
| 6.4.5 and 6.4.9 | Planning authorities must take account of and promote the resilience of ecosystems by way of following the attributes that are |

| | |
|----------------------------|---|
| | <p>set out in 'The DECCA Framework':</p> <ul style="list-style-type: none"> ▪ <i>diversity between and within ecosystems;</i> ▪ <i>the extent or scale of ecosystems;</i> ▪ <i>the condition of ecosystems including their structure and functioning;</i> ▪ <i>the connections between and within ecosystems; and</i> ▪ <i>adaptability of ecosystems including their ability to adapt to, resist and recover from a range of pressures likely to be placed on them through climate change for example.</i> <p>Detailed information on DECCA is contained in paragraph 6.4.9</p> |
| new paragraph under 6.4.8 | <p>Planning permission: monitoring of compliance with planning conditions.</p> <p><i>Net benefits for biodiversity would need to be monitored to ensure they are not lost to future development and that development proposals do not impact existing and previously agreed areas of net benefit for biodiversity.</i></p> |
| new paragraph under 6.4.21 | <p>When to refuse planning permission:</p> <p><i>Where biodiversity enhancement proportionate to the scale and nature of the development is not proposed as part of an application, significant weight will be given to its absence, and unless other significant material considerations indicate otherwise, it will be necessary to refuse permission.</i></p> |
| 6.4.20 | <p>Consultation on development proposals within non-statutory site designations</p> <p><i>Before authorising development likely to damage a local wildlife designation, planning authorities should give notice of the proposed operation to the local authority Ecologist and third sector environmental organisations. In all cases a written opinion must be secured from the local authority Ecologist.</i></p> |

| | |
|----------------------------|---|
| 6.4.17 | <p>Granting of planning permission for developments outside SSSIs but affecting qualifying features against advice from NRW.</p> <p><i>Before authorising development outside of a SSSI but likely to damage any of the notified features of a SSSI, planning authorities must give notice of the proposed operations to NRW, and must take its advice into account in deciding whether to grant planning permission and in attaching planning conditions. Where local planning authorities are minded to grant planning permission against the advice of NRW they must notify Welsh Ministers.</i></p> |
| 6.4.24 and 6.4.25 | <p>Planting and protection of tree, hedgerows, groups of trees etc.</p> <p><i>Planning authorities must promote the planting of new trees, hedgerows, groups of trees and areas of woodland as part of new development.</i></p> <p><i>Planning authorities must protect trees, hedgerows, groups of trees and areas of woodland where they have ecological value, contribute to the character or amenity of a particular locality, or perform a beneficial green infrastructure function.</i></p> |
| new paragraph under 6.4.25 | <p>Information to be submitted with planning application</p> <p><i>Where trees, woodland and hedgerows are present, their retention, protection and integration should be identified within planning applications. Where surveys identify trees, hedgerows, groups of trees and areas of woodland capable of making a significant contribution to the area, these trees should be retained and protected. The provision of services and utilities infrastructure to the application site should also avoid the loss of trees, woodlands or hedges and must be considered as part of the development proposal; where such trees are lost, they will be subject to the replacement planting ratios set out below.</i></p> |

| | |
|--------|--|
| 6.4.25 | <p>Removal of trees and replacement planting</p> <p><i>Permanent removal of trees, woodland and hedgerows will only be permitted where it would achieve significant and clearly defined public benefits. Where individual or groups of trees and hedgerows are removed as part of a proposed scheme, planning authorities must first follow the step-wise approach as set out in paragraph 6.4.21. Where loss is unavoidable developers will be required to provide compensatory planting (which is proportionate to the proposed loss as identified through an assessment of green infrastructure value including biodiversity, landscape value and carbon capture). Replacement planting shall be at a ratio equivalent to the quality, environmental and ecological importance of the tree(s) lost onsite, or immediately adjacent to the site, and at <u>a minimum ratio of at least 3 trees of a similar type and compensatory size planted for every 1 lost</u>. Where a woodland or a shelterbelt area is lost as part of a proposed scheme, the compensation planting must be at a scale, design and species mix reflective of that area lost. In such circumstances, the planting rate must be at a minimum of 1600 trees per hectare for broadleaves, and 2500 trees per hectare for conifers.</i></p> |
| 6.6.5 | <p>Water and Flood Risk</p> <p><i>The planning system should:</i></p> <ul style="list-style-type: none"> ▪ <i>protect and improve water resources and quality by promoting and encouraging increased efficiency and demand management of water as part of new developments...;</i> ▪ <i>ensure that the infrastructure networks, including nature based solutions, on which communities and businesses depend is adequate to accommodate proposed development, and takes into consideration the impacts of climate change...;</i> ▪ <i>ensure sustainable drainage systems are an integral part of</i> |

| | |
|--|--|
| | <p><i>design approaches for new development; and</i></p> <ul style="list-style-type: none"> ▪ <i>ensure the protection of the quantity and quality of surface and ground water supplies is taken into account as part of development proposals.</i> |
|--|--|

This page is intentionally left blank

REPORT BY THE HEAD OF PLANNING, PUBLIC PROTECTION AND COUNTRYSIDE SERVICE

PLANNING SCHEME OF DELEGATION (SoD) REVIEW

1. PURPOSE OF REPORT

To outline to Members suggested amendments to the Planning Scheme of Delegation. If agreed by Planning Committee, for the new version of the SoD to be operational with immediate effect.

2. BACKGROUND

The Planning Scheme of Delegation is the document that sets out which planning application and other related decisions can be made at officer level, or will need to be referred to Planning Committee for a resolution.

This is an addendum to the Council's constitution which delegates the operation of the Local Planning Authority's functions to the Head of Planning, Public Protection and Countryside Service.

A SoD is required in order to ensure an efficient planning application process. All Council's in Wales operate a SoD to enable the majority of planning applications to be determined at Officer level. In addition, a SoD allows for the proper functioning of a Planning Committee and to ensure certain planning decisions can be made within that democratic forum.

The amendments suggested at this review are as follows:

| Paragraph | Amendment | Reason |
|--|---|--|
| Part 1 – new paras 1.5.4 and 1.5.5 | To move the pre-application and Local Impact responses on NSIP and DNS schemes into Officer led decisions | As DCC are not the decision maker on these types of projects (decisions made by Welsh Ministers) there is limited time to provide input into the processes. As such, it is felt more efficient for Officers to liaise with relevant Lead and Local Members in the formulation of any responses as opposed to presenting recommendations to Planning Committee. |
| Part 2 – remove paras 2.1.9 and 2.1.10 | As per the above change to then delete reference to NSIP and DNS schemes from | As above. |

| | | |
|--|--------------------------|--|
| | Committee led decisions. | |
|--|--------------------------|--|

The revised scheme (Version 10) is attached to this report for Members (**appendix A**). A copy of the current scheme (Version 9) is also attached for reference (**appendix B**).

The Lead Member for Planning and Chair of Planning Committee have been consulted prior to these suggested changes being made.

3. RECOMMENDATION

That Members note the contents of this report and adopt the suggested changes to the SoD.

PLANNING, PUBLIC PROTECTION AND COUNTRYSIDE SERVICE

PLANNING (DEVELOPMENT MANAGEMENT)

SCHEME OF DELEGATION

This Scheme of Delegation is set out in two parts.

Part 1 relates to the authorisation of Officers to determine a range of planning related matters (Delegated Powers). These powers enable Officers to deal with a range of planning applications, notifications, consultations, enquiries and compliance matters without formal a formal resolution from Planning Committee.

Part 2 relates to a range of planning related matters which should be referred to Planning Committee for a formal resolution.

Having such a Scheme of Delegation enables the Local Planning Authority (LPA) to strike an appropriate balance between effecting timely decisions on the majority of planning matters whilst maintaining the necessary democratic checks Planning Committee provides.

1. PART 1 – OFFICER LEVEL DECISIONS

Subject to the provisions in Part 2 of the Scheme of Delegation, Part 1 authorises the Head of Service, Development Manager and any Officer so authorised by them to determine the range of applications, notifications, consultations, pre-application enquiries, general enquiries and compliance

Planning Scheme of Delegation

actions listed in Columns 1 and 2 of Appendix A.

In relation to the following, the scheme authorises the above Officers to: -

1.1. Determine Planning or other Applications:-

- 1.1.1. All types of applications listed in Column 1 of Appendix A on which Officers are recommending approval, and where 3, or less, individual written objections have been received from different properties* raising objections material to that application.
- 1.1.2. All types of applications listed in Column 1 of Appendix A on which Officers are recommending refusal.
- 1.1.3. All types of applications, notifications, consultations, pre-application enquiries, general enquiries and compliance matters listed in Column 2 of Appendix A.

1.2. Determine Pre-Application Enquiries and General Enquiries

- 1.2.1 All types of pre-application and general enquiries requiring a written response from the Local Planning Authority.

1.3. Deal with Compliance Issues:-

- 1.3.1. Cases which have been investigated by a Planning Compliance Officer and require no further action.
- 1.3.2. Cases which require the service of a formal notice as listed in Column 2 of Appendix A.
- 1.3.3. Legal action in association with breaches of Notices served under the provisions contained in paragraph 1.3.2 above and any other appropriate
**legal action not associated with such notices.

1.4. Deal with Miscellaneous Issues:-

- 1.4.1. To decide the type of planning appeal process to be adopted, subject to consultation with the Local Ward Member(s), and to defend the Council's position in accordance with the Protocol for Member Involvement in Planning Appeals.
- 1.4.2. Minor amendments to the terms of a Section 106 legal agreement where the substance of the authorised terms have not been significantly altered,

Planning Scheme of Delegation

subject to informal consultation with the Local Ward Member(s).

1.4.3. Minor amendments to the wording of planning conditions / reasons for refusal/notes to applicants on applications determined at Planning Committee, including minor amendments to Committee authorised enforcement notices where the substance of the suggested condition /reason for refusal /note to applicant / notice is not significantly altered, subject to informal consultation with the Local Ward Member(s).

1.4.4 To make and serve Tree Preservation Order Notices. To deal with applications for works to Trees in Conservation Areas.

1.4.5 To respond to all EIA screening and scoping requests.

1.5 Deal with matters relating to Nationally Significant Infrastructure Projects (NSIPs) and Developments of National Significance (DNS)

1.5.1. To submit observations on behalf of the Council:

- Responding to the relevant Decision Making Body on environmental impact assessment screening and scoping opinion consultations.
- Responding to the developer's consultation on the Statement of Community Consultation.
- Responding to the Decision Making Body's consultation on the adequacy of the developer's consultation.

1.5.2 To agree to enter into Planning Performance Agreements with developers.

1.5.3 To agree Statements of Common Ground.

1.5.4 To represent the Council at Examination Hearing Sessions and make verbal / written representations during the Examination.

1.5.5 To approve details submitted to the Local Planning Authority in accordance with Requirements contained in NSIP Development Consent Orders.

2. PART 2 – COMMITTEE LEVEL DECISIONS

2.1. The scheme requires referral of the following to Planning Committee for

Planning Scheme of Delegation

formal resolution. This means that the following would not fall within Part 1 of this scheme:-

Planning or other applications

- 2.1.1. All types of application listed in Column 1 of Appendix A on which Officers are recommending approval and where 4, or more, individual written objections have been received from different properties raising planning objections material to that application.
- 2.1.2. All types of applications listed in Column 1 of Appendix A on which Officers are recommending approval where an explicit* relevant material planning objection has been received from a City/Town/Community Council or body required to be consulted under the provisions of The Town and Country Planning (General Development) Procedure Order.
- 2.1.3. Any application to remove or vary a planning condition which has been specifically imposed by Members at Planning Committee.

Departures

- 2.1.4. All types of applications listed in Column 1 of Appendix A on which Officers are recommending approval which represent a significant departure from the adopted policies and guidance of the Development Plan.

Member Call-In

- 2.1.5. Any application not already determined under Part 1 above which the Ward Member for the Ward in which the application site is located has submitted a written request, based on valid planning grounds, that the application be referred to Planning Committee. The adjoining Ward Member(s) may request referral to Committee where it can be justified that there would be a material planning impact on that area. Requests for referral to Committee must be made in writing to the Head of Planning, Public Protection and Countryside Service and/or the Development Manager.

Officer Call-In

- 2.1.6 Any other application, notification, consultation, enquiry and enforcement matter listed in Column 1 and 2 of Appendix A which the Head of Service or Development Manager considers necessary to report to Planning Committee

Planning Scheme of Delegation

due to interest or circumstance.

Applicant

2.1.7 All types of applications listed in Column 1 of Appendix A submitted by, on behalf of, or on land in the ownership of:

A County Councillor,

Member of the Senior Leadership Team (SLT)

Member of staff of Planning, Public Protection and Countryside Service

A *close relative of any of the above

Legal Modifications

2.1.8 Any application to vary or modify any fundamental terms of a Section 106 legal agreement which is linked to a planning permission given at Planning Committee.

Nationally Significant Infrastructure Projects (NSIPs) and Developments of National Significance (DNS)

2.1.9. Any formal response to the developer's statutory pre-application consultation.

2.1.10. Any formal response to the relevant Decision Making Body on NSIP / DNS application consultations, including the Local Impact Report.

Referral Back To Committee

2.1.11 Any application which has been determined contrary to Officer recommendation at Planning Committee but which, in the opinion of the Head of Service in consultation with the Monitoring Officer, could involve one of the following:

a) A significant departure from the adopted Development Plan.

Planning Scheme of Delegation

- b) A significant risk of costs being awarded against the Council at any subsequent planning appeal, legal challenge, possible Welsh Government call-in or Ombudsman investigation.

2.1.12 The returning report will, in all circumstances, be referred back to Planning Committee in order to protect the interests of the Council and will contain additional information pertaining to the two areas a) and/or b) above.

Planning Scheme of Delegation

| Column 1 – Types of applications | | Column 2 – Notifications/Consultations/Enforcement Actions | |
|----------------------------------|---|--|--|
| Application Code | | Application Code | |
| AC | Approval of planning Conditions | AA | Agricultural Prior Notification (Roads, tanks, other) |
| AD | Advert Applications | AG | Agricultural Prior Notification (Buildings) |
| CA | Conservation Area Consent | CT | Certificate of Appropriate Alternative Development |
| LB | Listed Building Consent | DA | Demolition Prior Approval |
| | | DM | Demolition Notification – Dwellings |
| MA | Minerals Application | EL | Electricity Line |
| OB | Modification/Discharge of obligation (Section 106) | FA | Forestry Prior Approval |
| PC | Retrospective Applications | FE | Forestry Notification |
| PF | Full Planning Permission | GD | Government Department |
| PO | Outline Planning Permission | HE | Notification to remove Hedgerow |

Planning Scheme of Delegation

| | | | |
|----|--|-----|--|
| PR | Reserved Matters | HR | Hedgerow Retention Notice |
| PS | Section 73 Variation/Removal of planning condition | HS | Hazardous Substances Consent |
| TP | Works on trees with Tree Preservation Orders | LE | Certificate of Lawfulness for Existing Use/Development |
| WA | Waste | LP | Certificate of Lawfulness for Proposed Use/Development |
| | | NA | Neighbouring Authority Consultation |
| | | NMA | Non Material Amendment |
| | | TA | Telecommunications Prior Approval |
| | | TB | Telecommunications Notification |
| | | TC | Work on trees in Conservation Areas |
| | | ENQ | All pre-application and general enquiries |
| | | ENF | Advertisement Discontinuance Notices, Breach of Condition Notices, Community Protection Notices, Completion Notices, Conservation Area Enforcement Notices, Enforcement Notices, Enforcement Warning Notices, Hazardous Substances Contravention |

Planning Scheme of Delegation

| | | | |
|--|--|--|--|
| | | | Notices, Hedgerow Replacement Notices, High Hedge Remedial Notices, Listed Building Enforcement Notices, Maintenance of Land Notices, Planning Contravention Notices, Repairs Notices, requisitions for information, Stop Notices, Temporary Stop Notices, Tree Replacement Notices and Urgent Works Notices |
|--|--|--|--|

Planning Scheme of Delegation

INTERPRETATION

FOR CLARITY REGARDING THE SCHEME OF DELEGATION:

Valid Representations

Representations will only be taken into account for the purposes of defining whether an application falls within Part 1 or Part 2 of the Scheme of Delegation if they contain a full, valid postal address. For the purposes of the Scheme * “different” properties means they should have a different postal address point.

Electronic representations will only be accepted by e-mail. They will only be taken into account for the purposes of defining whether an application falls within Part 1 or Part 2 of the Scheme of Delegation if they contain an individual’s name and a full postal address.

Anonymous letters and e-mails without a name and full postal address will not be taken into account.

Representations which are considered to contain libellous, discriminatory, defamatory or otherwise offensive remarks will not be considered.

Petitions containing names and signatures along with associated addresses will be defined for the purposes of whether an application falls within Part 1 or Part 2 of the Scheme of Delegation as one single representation.

Definitions

“Close relative” is defined as spouses/partners, parents, children, brothers and sisters.

*Explicit means any response should clearly state either **“No Objections”**, **“No Observations”**, **“Support”** or **“Object” (providing material reasons for the objection)**.

“Significant Departure” is defined as any proposal which, if approved or refused, would harm the fundamental intentions of a Policy in the adopted Local Development Plan.

Planning Scheme of Delegation

For “Bodies required to be consulted under Procedure Order” please refer to latest Procedure Order

******For the purposes of this any other appropriate legal action shall include Injunctions.

For the purposes of this scheme all planning applications will include those made by or on behalf of the Council.

This page is intentionally left blank

PLANNING, PUBLIC PROTECTION AND COUNTRYSIDE SERVICE

PLANNING (DEVELOPMENT MANAGEMENT)

SCHEME OF DELEGATION

This Scheme of Delegation is set out in two parts.

Part 1 relates to the authorisation of Officers to determine a range of planning related matters (Delegated Powers). These powers enable Officers to deal with a range of planning applications, notifications, consultations, enquiries and compliance matters without formal a formal resolution from Planning Committee.

Part 2 relates to a range of planning related matters which should be referred to Planning Committee for a formal resolution.

Having such a Scheme of Delegation enables the Local Planning Authority (LPA) to strike an appropriate balance between effecting timely decisions on the majority of planning matters whilst maintaining the necessary democratic checks Planning Committee provides.

1. PART 1 – OFFICER LEVEL DECISIONS

Subject to the provisions in Part 2 of the Scheme of Delegation, Part 1 authorises the Head of Service, Development Manager and any Officer so authorised by them to determine the range of applications, notifications, consultations, pre-application enquiries, general enquiries and compliance

Planning Scheme of Delegation

actions listed in Columns 1 and 2 of Appendix A.

In relation to the following, the scheme authorises the above Officers to: -

1.1. Determine Planning or other Applications:-

- 1.1.1. All types of applications listed in Column 1 of Appendix A on which Officers are recommending approval, and where 3, or less, individual written objections have been received from different properties* raising objections material to that application.
- 1.1.2. All types of applications listed in Column 1 of Appendix A on which Officers are recommending refusal.
- 1.1.3. All types of applications, notifications, consultations, pre-application enquiries, general enquiries and compliance matters listed in Column 2 of Appendix A.

1.2. Determine Pre-Application Enquiries and General Enquiries

- 1.2.1 All types of pre-application and general enquiries requiring a written response from the Local Planning Authority.

1.3. Deal with Compliance Issues:-

- 1.3.1. Cases which have been investigated by a Planning Compliance Officer and require no further action.
- 1.3.2. Cases which require the service of a formal notice as listed in Column 2 of Appendix A.
- 1.3.3. Legal action in association with breaches of Notices served under the provisions contained in paragraph 1.3.2 above and any other appropriate
**legal action not associated with such notices.

1.4. Deal with Miscellaneous Issues:-

- 1.4.1. To decide the type of planning appeal process to be adopted, subject to consultation with the Local Ward Member(s), and to defend the Council's position in accordance with the Protocol for Member Involvement in Planning Appeals.
- 1.4.2. Minor amendments to the terms of a Section 106 legal agreement where the substance of the authorised terms have not been significantly altered,

Planning Scheme of Delegation

subject to informal consultation with the Local Ward Member(s).

1.4.3. Minor amendments to the wording of planning conditions / reasons for refusal/notes to applicants on applications determined at Planning Committee, including minor amendments to Committee authorised enforcement notices where the substance of the suggested condition /reason for refusal /note to applicant / notice is not significantly altered, subject to informal consultation with the Local Ward Member(s).

1.4.4 To make and serve Tree Preservation Order Notices. To deal with applications for works to Trees in Conservation Areas.

1.4.5 To respond to all EIA screening and scoping requests.

1.5 Deal with matters relating to Nationally Significant Infrastructure Projects (NSIPs) and Developments of National Significance (DNS)

1.5.1. To submit observations on behalf of the Council:

- Responding to the relevant Decision Making Body on environmental impact assessment screening and scoping opinion consultations.
- Responding to the developer's consultation on the Statement of Community Consultation.
- Responding to the Decision Making Body's consultation on the adequacy of the developer's consultation.

1.5.2 To agree to enter into Planning Performance Agreements with developers.

1.5.3 To agree Statements of Common Ground.

1.5.4 To formally respond to the developers statutory pre-application consultation in liaison with Lead and relevant Local Members.

1.5.5 To formally respond to the relevant Decision Making Body on NSIP and DNS consultations, including the submission of any Local Impact Report (LIR) in liaison with the Lead and relevant Local Members

1.5.6 To represent the Council at Examination Hearing Sessions and make verbal / written representations during the Examination.

1.5.7 To approve details submitted to the Local Planning Authority in accordance with Requirements contained in NSIP/DNS Development Consent Orders.

Planning Scheme of Delegation

2. PART 2 – COMMITTEE LEVEL DECISIONS

2.1. The scheme requires referral of the following to Planning Committee for formal resolution. This means that the following would not fall within Part 1 of this scheme:-

Planning or other applications

- 2.1.1. All types of application listed in Column 1 of Appendix A on which Officers are recommending approval and where 4, or more, individual written objections have been received from different properties raising planning objections material to that application.
- 2.1.2. All types of applications listed in Column 1 of Appendix A on which Officers are recommending approval where an explicit* relevant material planning objection has been received from a City/Town/Community Council or body required to be consulted under the provisions of The Town and Country Planning (General Development) Procedure Order.
- 2.1.3. Any application to remove or vary a planning condition which has been specifically imposed by Members at Planning Committee.

Departures

- 2.1.4. All types of applications listed in Column 1 of Appendix A on which Officers are recommending approval which represent a significant departure from the adopted policies and guidance of the Development Plan.

Member Call-In

- 2.1.5. Any application not already determined under Part 1 above which the Ward Member for the Ward in which the application site is located has submitted a written request, based on valid planning grounds, that the application be referred to Planning Committee. The adjoining Ward Member(s) may request referral to Committee where it can be justified that there would be a material planning impact on that area. Requests for referral to Committee must be made in writing to the Head of Planning, Public Protection and Countryside Service and/or the Development Manager.

Planning Scheme of Delegation

Officer Call-In

- 2.1.6 Any other application, notification, consultation, enquiry and enforcement matter listed in Column 1 and 2 of Appendix A which the Head of Service or Development Manager considers necessary to report to Planning Committee due to interest or circumstance.

Applicant

- 2.1.7 All types of applications listed in Column 1 of Appendix A submitted by, on behalf of, or on land in the ownership of:

A County Councillor,

Member of the Senior Leadership Team (SLT)

Member of staff of Planning, Public Protection and Countryside Service

A *close relative of any of the above

Legal Modifications

- 2.1.8 Any application to vary or modify any fundamental terms of a Section 106 legal agreement which is linked to a planning permission given at Planning Committee.

Referral Back To Committee

- 2.1.11 Any application which has been determined contrary to Officer recommendation at Planning Committee but which, in the opinion of the Head of Service in consultation with the Monitoring Officer, could involve one of the following:
- a) A significant departure from the adopted Development Plan.
 - b) A significant risk of costs being awarded against the Council at any subsequent planning appeal, legal challenge, possible Welsh Government call-in or Ombudsman investigation.
- 2.1.12 The returning report will, in all circumstances, be referred back to Planning Committee in order to protect the interests of the Council and will contain additional information pertaining to the two areas a) and/or b) above.

Planning Scheme of Delegation

| Column 1 – Types of applications | | Column 2 – Notifications/Consultations/Enforcement Actions | |
|----------------------------------|--|--|---|
| Application Code | | Application Code | |
| AC | Approval of planning Conditions | AA | Agricultural Prior Notification (Roads, tanks, other) |
| AD | Advert Applications | AG | Agricultural Prior Notification (Buildings) |
| CA | Conservation Area Consent | CT | Certificate of Appropriate Alternative Development |
| LB | Listed Building Consent | DA | Demolition Prior Approval |
| | | DM | Demolition Notification – Dwellings |
| MA | Minerals Application | EL | Electricity Line |
| OB | Modification/Discharge of obligation (Section 106) | FA | Forestry Prior Approval |
| PC | Retrospective Applications | FE | Forestry Notification |
| PF | Full Planning Permission | GD | Government Department |
| PO | Outline Planning Permission | HE | Notification to remove Hedgerow |

Planning Scheme of Delegation

| | | | |
|----|--|-----|--|
| PR | Reserved Matters | HR | Hedgerow Retention Notice |
| PS | Section 73 Variation/Removal of planning condition | HS | Hazardous Substances Consent |
| TP | Works on trees with Tree Preservation Orders | LE | Certificate of Lawfulness for Existing Use/Development |
| WA | Waste | LP | Certificate of Lawfulness for Proposed Use/Development |
| | | NA | Neighbouring Authority Consultation |
| | | NMA | Non Material Amendment |
| | | TA | Telecommunications Prior Approval |
| | | TB | Telecommunications Notification |
| | | TC | Work on trees in Conservation Areas |
| | | ENQ | All pre-application and general enquiries |
| | | ENF | Advertisement Discontinuance Notices, Breach of Condition Notices, Community Protection Notices, Completion Notices, Conservation Area Enforcement Notices, Enforcement Notices, Enforcement Warning Notices, Hazardous Substances Contravention |

Planning Scheme of Delegation

| | | | |
|--|--|--|--|
| | | | Notices, Hedgerow Replacement Notices, High Hedge Remedial Notices, Listed Building Enforcement Notices, Maintenance of Land Notices, Planning Contravention Notices, Repairs Notices, requisitions for information, Stop Notices, Temporary Stop Notices, Tree Replacement Notices and Urgent Works Notices |
|--|--|--|--|

Planning Scheme of Delegation

INTERPRETATION

FOR CLARITY REGARDING THE SCHEME OF DELEGATION:

Valid Representations

Representations will only be taken into account for the purposes of defining whether an application falls within Part 1 or Part 2 of the Scheme of Delegation if they contain a full, valid postal address. For the purposes of the Scheme * “different” properties means they should have a different postal address point.

Electronic representations will only be accepted by e-mail. They will only be taken into account for the purposes of defining whether an application falls within Part 1 or Part 2 of the Scheme of Delegation if they contain an individual’s name and a full postal address.

Anonymous letters and e-mails without a name and full postal address will not be taken into account.

Representations which are considered to contain libellous, discriminatory, defamatory or otherwise offensive remarks will not be considered.

Petitions containing names and signatures along with associated addresses will be defined for the purposes of whether an application falls within Part 1 or Part 2 of the Scheme of Delegation as one single representation.

Definitions

“Close relative” is defined as spouses/partners, parents, children, brothers and sisters.

*Explicit means any response should clearly state either **“No Objections”**, **“No Observations”**, **“Support”** or **“Object” (providing material reasons for the objection)**.

“Significant Departure” is defined as any proposal which, if approved or refused, would harm the fundamental intentions of a Policy in the adopted Local Development Plan.

Planning Scheme of Delegation

For “Bodies required to be consulted under Procedure Order” please refer to latest Procedure Order

******For the purposes of this any other appropriate legal action shall include Injunctions.

For the purposes of this scheme all planning applications will include those made by or on behalf of the Council.